

116TH CONGRESS  
1ST SESSION

# S. 2954

To establish a pilot toll credit marketplace program, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 21, 2019

Mrs. SHAHEEN (for herself and Mr. BOOKER) introduced the following bill;  
which was read twice and referred to the Committee on Environment and  
Public Works

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## A BILL

To establish a pilot toll credit marketplace program, and  
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Toll Credit Market-  
5 place Act”.

6 **SEC. 2. TOLL CREDIT MARKETPLACE PILOT PROGRAM.**

7 (a) DEFINITIONS.—In this section:

8 (1) PILOT PROGRAM.—The term “pilot pro-  
9 gram” means the toll credit marketplace pilot pro-  
10 gram established under subsection (b).

1           (2) SECRETARY.—The term “Secretary” means  
2 the Secretary of Transportation.

3           (3) STATE.—The term “State” has the mean-  
4 ing given the term in section 101 of title 23, United  
5 States Code.

6           (4) TOLL CREDIT.—The term “toll credit”  
7 means the credit that can be used toward the non-  
8 Federal share requirement under section 120(i) of  
9 title 23, United States Code.

10          (5) TOLL CREDIT MARKETPLACE.—The term  
11 “toll credit marketplace” means a market in which  
12 toll credits can be purchased and sold by States par-  
13 ticipating in the pilot program.

14          (b) ESTABLISHMENT OF PILOT PROGRAM.—Not  
15 later than 1 year after the date of enactment of this Act,  
16 the Secretary shall establish and implement a pilot pro-  
17 gram to develop a toll credit marketplace for States to  
18 buy and sell toll credits in accordance with this section.

19          (c) PURPOSES.—The purposes of the pilot program  
20 are—

21           (1) to identify the extent of the demand to pur-  
22 chase toll credits;

23           (2) to identify the cash price of toll credits  
24 through bilateral transactions between participating  
25 States;

1           (3) to analyze the impact of the purchase or  
2           sale of toll credits on transportation expenditures;  
3           and

4           (4) to test the feasibility of expanding the toll  
5           credit market to allow all States to participate on a  
6           permanent basis.

7           (d) PARTICIPANTS.—The Secretary shall select not  
8           fewer than 10 States to participate in the pilot program.

9           (e) ADMINISTRATION.—In carrying out the pilot pro-  
10          gram, the Secretary—

11           (1) shall establish procedures for a toll credit  
12          marketplace;

13           (2) not later than 90 days after the date of en-  
14          actment of this Act, shall provide notice to States  
15          that the Secretary is requesting participants for the  
16          pilot program; and

17           (3) shall allow to participate in the pilot pro-  
18          gram—

19           (A) a State that maintains a toll credit  
20          balance accumulated before the date of enact-  
21          ment of this Act;

22           (B) a State that does not maintain infra-  
23          structure for the collection of toll credits; and

24           (C) a State that has not accumulated a toll  
25          credit balance.

1 (f) TRANSFER OR SALE OF TOLL CREDITS.—

2 (1) IN GENERAL.—In carrying out the pilot  
3 program, the Secretary shall allow a participating  
4 State to sell a toll credit not previously used by the  
5 State under section 120(i) of title 23, United States  
6 Code.

7 (2) REQUIREMENT.—A State participating in  
8 the toll credit marketplace shall be subject to section  
9 120(i)(2) of title 23, United States Code.

10 (3) WEBSITE SUPPORT.—The Secretary shall  
11 establish an online platform that allows participating  
12 States to offer and bid on toll credit purchases.

13 (4) OVERSIGHT.—

14 (A) IN GENERAL.—The Secretary may—

15 (i) review any purchase and sale of a  
16 toll credit under the pilot program; and

17 (ii) limit or prohibit a purchase or  
18 sale of a toll credit under the pilot pro-  
19 gram if the Secretary determines that the  
20 purchase or sale is not consistent with the  
21 purposes of the pilot program.

22 (B) APPEAL.—If the Secretary limits or  
23 prohibits a purchase or sale of a toll credit  
24 under subparagraph (A)(ii)—

1 (i) the Secretary shall provide to the  
2 State notice of that determination;

3 (ii) not later than 30 days after the  
4 date on which the State receives the notice  
5 under clause (i), the State may request  
6 that the Secretary reconsider the deter-  
7 mination; and

8 (iii) not later than 60 days after the  
9 date on which the Secretary receives a re-  
10 quest under clause (ii), the Secretary shall  
11 make a determination on the request.

12 (g) USE OF TOLL CREDITS AND FUNDS.—

13 (1) USE OF TOLL CREDITS BY PURCHASER.—A  
14 participating State shall use a toll credit purchased  
15 under the pilot program toward the non-Federal  
16 share requirement for a project carried out under  
17 title 23 or chapter 53 of title 49, United States  
18 Code, in accordance with section 120(i) of title 23,  
19 United States Code.

20 (2) USE OF PROCEEDS FROM SALE OF TOLL  
21 CREDITS.—A participating State shall use the pro-  
22 ceeds from the sale of a toll credit under the pilot  
23 program for a project eligible for assistance under  
24 title 23 or chapter 53 of title 49, United States  
25 Code.

1 (h) METROPOLITAN PLANNING ORGANIZATION AND  
2 LOCAL GOVERNMENT TOLL CREDIT ALLOCATION.—

3 (1) PURCHASE OF TOLL CREDITS.—On request  
4 of a metropolitan planning organization or local gov-  
5 ernment in the State, and with a timely payment of  
6 the amount of the toll credits, a State may purchase  
7 toll credits under this section on behalf of the metro-  
8 politan planning organization or local government.

9 (2) ALLOCATION OF TOLL CREDITS.—On ap-  
10 proval of the relevant metropolitan planning organi-  
11 zation or local government, a State may allocate toll  
12 credits purchased by the State for use by the metro-  
13 politan planning organization or local government.

14 (i) LIMITATION ON USE OF FEDERAL FUNDS FOR  
15 THE PURCHASE OF TOLL CREDITS.—A State, metropoli-  
16 tan planning organization, or local government may not  
17 use Federal funds to purchase toll credits on the toll credit  
18 marketplace.

19 (j) REPORTING REQUIREMENTS.—

20 (1) STATE REPORT.—Not later than 30 days  
21 after each purchase or sale in the toll credit market-  
22 place under the pilot program—

23 (A) the State that sold the toll credit shall  
24 provide to the Secretary information on the  
25 transaction, including—

1 (i) the amount of cash received;  
2 (ii) the value of the toll credit sold;  
3 (iii) the intended use of the cash; and  
4 (iv) the remaining toll credit balance  
5 of the State; and

6 (B) the State that purchased the toll credit  
7 shall provide to the Secretary information on—

8 (i) the value of the toll credit pur-  
9 chased; and

10 (ii) the anticipated use of the toll  
11 credit.

12 (2) ANNUAL REPORTS.—Not later than 1 year  
13 after the date on which the pilot program is estab-  
14 lished under subsection (b) and each year thereafter  
15 for the duration of the pilot program, the Secretary  
16 shall submit to the Committee on Environment and  
17 Public Works of the Senate and the Committee on  
18 Transportation and Infrastructure of the House of  
19 Representatives a report on the progress of the toll  
20 credit marketplace.

21 (3) FINAL REPORT.—Not later than the date  
22 on which the pilot program terminates under sub-  
23 section (1), the Secretary shall—

24 (A) submit to the Committee on Environ-  
25 ment and Public Works of the Senate and the

1 Committee on Transportation and Infrastruc-  
2 ture of the House of Representatives a report  
3 that—

4 (i) evaluates whether a toll credit  
5 marketplace is viable;

6 (ii) describes the buying and selling  
7 activities of the toll credit marketplace;

8 (iii) determines the average sales price  
9 of toll credits;

10 (iv) evaluates whether the pilot pro-  
11 gram could be expanded to more States or  
12 all States;

13 (v) provides updated information on  
14 the toll credit balance accumulated by each  
15 State; and

16 (vi) describes the list of projects that  
17 were assisted by the pilot program; and

18 (B) make the report under subparagraph  
19 (A) publicly available on the website of the Sec-  
20 retary.

21 (k) GAO REPORT.—After the end of the first year  
22 during which the toll credit marketplace is in operation,  
23 the Comptroller General of the United States shall—

24 (1) conduct a study on the performance of the  
25 toll credit marketplace; and



1           (2) submit to Congress a report that includes—

2                   (A) an evaluation regarding whether the  
3 pilot program is successful; and

4                   (B) any recommendations on how to im-  
5 prove the pilot program.

6           (1) SUNSET.—The pilot program shall terminate on  
7 the date that is 5 years after the date on which the pilot  
8 program is established.

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