

115TH CONGRESS
2D SESSION

S. 2439

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2018

Mrs. SHAHEEN introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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.—Not later than 1 year after
15 the date of enactment of this Act, the Secretary shall es-
16 tablish and implement a pilot program to develop a toll
17 credit marketplace for States to buy and sell toll credits.

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

20 (1) to identify whether a monetary value can be
21 assigned to toll credits;

22 (2) to identify the discounted rate of toll credits
23 for cash;

24 (3) to determine if the purchase of toll credits
25 by States provides the purchasing State budget flexi-

1 bility to deal with funding issues, including off-sys-
2 tem needs, transit systems with high operating costs,
3 or cash flow issues; 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) ADMINISTRATION.—In carrying out the pilot pro-
8 gram, the Secretary—

9 (1) shall establish procedures for a toll credit
10 marketplace;

11 (2) shall establish an online platform that al-
12 lows participating States to offer and bid on toll
13 credit purchases;

14 (3) not later than 90 days after the date of en-
15 actment of this Act, shall provide notice to States
16 that the Federal Highway Administration is request-
17 ing participants for the pilot program;

18 (4) shall allow to participate in the pilot pro-
19 gram—

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

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

1 (C) a State that has not accumulated a toll
 2 credit balance; and

3 (5) shall not allow a State to purchase or sell
 4 toll credits in an amount that is less than 10 percent
 5 of the value of the toll credit value if applied as a
 6 non-Federal share requirement under section
 7 120(i)(1) of title 23, United States Code.

8 (e) REPORTING REQUIREMENTS.—

9 (1) INITIAL REPORT.—Not later than 180 days
 10 after notice of the pilot program is provided to the
 11 States under subsection (d)(3), the Secretary shall
 12 submit to the Committee on Transportation and In-
 13 frastructure of the House of Representatives and the
 14 Committee on Environment and Public Works of the
 15 Senate a report on the progress of the toll credit
 16 marketplace.

17 (2) STATE REPORT.—Not later than 30 days
 18 after a purchase or sale in the toll credit market-
 19 place under the pilot program—

20 (A) a State selling toll credits shall provide
 21 to the Secretary information on the transaction,
 22 including—

23 (i) the amount of cash received;
 24 (ii) the value of toll credits sold;
 25 (iii) the intended use of the cash; and

1 (iv) the remaining toll credit balance
2 of the State; and

3 (B) a State purchasing toll credits shall
4 provide to the Secretary information on—

5 (i) the value of toll credits purchased;

6 (ii) the anticipated use of the toll
7 credits; and

8 (iii) plans for maintenance of effort
9 for spending on Federal-aid highway
10 projects.

11 (3) ANNUAL REPORT.—Not later than 1 year
12 after notice of the pilot program is provided to the
13 States under subsection (d)(3) and each year there-
14 after that the pilot program is in effect, the Sec-
15 retary shall—

16 (A) submit to the Committee on Transpor-
17 tation and Infrastructure of the House of Rep-
18 resentatives and the Committee on Environ-
19 ment and Public Works of the Senate a report
20 that—

21 (i) evaluates whether a toll credit
22 marketplace is viable;

23 (ii) describes the buying and selling
24 activities of the toll credit marketplace;

1 (iii) determines the monetary value of
2 toll credits;

3 (iv) evaluates whether the pilot pro-
4 gram could be expanded to more States or
5 all States; and

6 (v) provides updated information on
7 the toll credit balance accumulated by each
8 State; and

9 (B) makes the report under subparagraph
10 (A) publicly available on the website of the Sec-
11 retary.

12 (f) MAINTENANCE OF EFFORT.—Except as provided
13 in subsection (i)(2), a State participating in the toll credit
14 marketplace shall be subject to section 120(i)(2) of title
15 23, United States Code.

16 (g) USE OF FUNDS RECEIVED FOR THE SALE.—

17 (1) IN GENERAL.—A State that receives funds
18 from the sale of a toll credit may use the funds only
19 for a project eligible for assistance under chapter 1
20 of title 23, United States Code, or chapter 53 of
21 title 49, United States Code.

22 (2) CERTIFICATION.—Before expending any
23 funds received in exchange for a toll credit, the
24 State shall—

1 (A) provide to the Secretary a certification
 2 that the funds will be used as described in
 3 paragraph (1); and

4 (B) receive approval from the Secretary
 5 under paragraph (3).

6 (3) APPROVAL.—Not later than 30 days after
 7 the receipt of a certification under paragraph (2),
 8 the Secretary shall send a notice of decision to the
 9 State that—

10 (A) approves the certification; or

11 (B)(i) disapproves the certification; and

12 (ii) includes an explanation of the grounds
 13 for disapproval and recommendations for ad-
 14 dressing the deficiencies.

15 (4) APPEAL.—If the Secretary disapproves the
 16 certification under paragraph (3)(B)—

17 (A) not later than 30 days after a State
 18 receives a notice of decision disapproving the
 19 certification, the State may ask the Secretary to
 20 reconsider the decision; and

21 (B) not later than 60 days after the Sec-
 22 retary receives a request to reconsider under
 23 subparagraph (A), the Secretary shall review
 24 the request and make a determination.

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.—

16 (1) LIMITATION ON FEDERAL FUNDS.—A
 17 State, metropolitan planning organization, or local
 18 government may not use Federal funds to purchase
 19 toll credits on the toll credit marketplace.

20 (2) USE OF TOLL CREDITS.—A State may use
 21 toll credits purchased under this section to meet not
 22 more than 10 percent of the non-Federal share re-
 23 quirement for any funds made available to carry out
 24 chapter 1 of title 23, United States Code, or chapter

1 53 of title 49, United States Code, for each fiscal
2 year.

3 (j) GAO REPORT.—After the end of the first year
4 during which the toll credit marketplace is in operation,
5 the Comptroller General of the United States shall—

6 (1) conduct a study on the performance of the
7 toll credit marketplace; and

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

9 (A) a determination as to whether the pilot
10 program is successful; and

11 (B) any recommendations on how to im-
12 prove the pilot program.

13 (k) SUNSET.—The pilot program shall terminate on
14 September 30, 2020.

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