

117TH CONGRESS
1ST SESSION

S. 1808

To establish a pilot program for the transfer and sale of toll credits, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 25, 2021

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

A BILL

To establish a pilot program for the transfer and sale of
toll credits, 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 of 2021”.

6 **SEC. 2. TRANSFER AND SALE OF TOLL CREDITS.**

7 (a) DEFINITIONS.—In this section:

8 (1) ORIGINATING STATE.—The term “origi-
9 nating State” means a State that—

1 (A) is eligible to use a credit under section
2 120(i) of title 23, United States Code; and

3 (B) has been selected by the Secretary
4 under subsection (d)(2).

5 (2) PILOT PROGRAM.—The term “pilot pro-
6 gram” means the pilot program established under
7 subsection (b).

8 (3) RECIPIENT STATE.—The term “recipient
9 State” means a State that receives a credit by trans-
10 fer or by sale under this section from an originating
11 State.

12 (4) SECRETARY.—The term “Secretary” means
13 the Secretary of Transportation.

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

17 (b) ESTABLISHMENT OF PILOT PROGRAM.—Not
18 later than 1 year after the date of enactment of this Act,
19 the Secretary shall establish and implement a toll credit
20 exchange pilot program in accordance with this section.

21 (c) PURPOSES.—The purposes of the pilot program
22 are—

23 (1) to identify the extent of the demand to pur-
24 chase toll credits;

1 (2) to identify the cash price of toll credits
2 through bilateral transactions between States;

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

5 (4) to test the feasibility of expanding the pilot
6 program to allow all States to participate on a per-
7 manent basis; and

8 (5) to identify any other repercussions of the
9 toll credit exchange.

10 (d) SELECTION OF ORIGINATING STATES.—

11 (1) APPLICATION.—In order to participate in
12 the pilot program as an originating State, a State
13 shall submit to the Secretary an application at such
14 time, in such manner, and containing such informa-
15 tion as the Secretary may require, including, at a
16 minimum, such information as is required for the
17 Secretary to verify—

18 (A) the amount of unused toll credits for
19 which the State has submitted certification to
20 the Secretary that are available to be sold or
21 transferred under the pilot program, includ-
22 ing—

23 (i) toll revenue generated and the
24 sources of that revenue;

(ii) toll revenue used by public, quasi-public, and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce; and

(iii) an accounting of any Federal funds used by the public, quasi-public, or private agency to build, improve, or maintain the toll facility, to validate that the credit has been reduced by a percentage equal to the percentage of the total cost of building, improving, or maintaining the facility that was derived from Federal funds;

(B) the documentation of maintenance of effort for toll credits earned by the originating State; and

(C) the accuracy of the accounting system of the State to earn and track toll credits.

(2) SELECTION.—Of the States that submit an application under paragraph (1), the Secretary may select not more than 10 States to be designated as an originating State.

(3) LIMITATION ON SALES.—At any time, the Secretary may limit the amount of unused toll cred-

1 its that may be offered for sale under the pilot pro-
2 gram.

3 (e) TRANSFER OR SALE OF CREDITS.—

4 (1) IN GENERAL.—In carrying out the pilot
5 program, the Secretary shall provide that an origi-
6 nating State may transfer or sell to a recipient State
7 a credit not previously used by the originating State
8 under section 120(i) of title 23, United States Code.

9 (2) WEBSITE SUPPORT.—The Secretary shall
10 make available a publicly accessible website on which
11 originating States shall post the amount of toll cred-
12 its, verified under subsection (d)(1)(A), that are
13 available for sale or transfer to a recipient State.

14 (3) BILATERAL TRANSACTIONS.—An origi-
15 nating State and a recipient State may enter into a
16 bilateral transaction to sell or transfer verified toll
17 credits.

18 (4) NOTIFICATION.—Not later than 30 days
19 after the date on which a credit is transferred or
20 sold, the originating State and the recipient State
21 shall jointly submit to the Secretary a written notifi-
22 cation of the transfer or sale, including details on—

23 (A) the amount of toll credits that have
24 been sold or transferred;

1 (B) the price paid or other value trans-
 2 ferred in exchange for the toll credits;

3 (C) the intended use by the recipient State
 4 of the toll credits, if known;

5 (D) the intended use by the originating
 6 State of the cash or other value transferred;

7 (E) an update on the toll credit balance of
 8 the originating State and the recipient State;
 9 and

10 (F) any other information about the trans-
 11 action that the Secretary may require.

12 (5) USE OF CREDITS BY TRANSFEREE OR PUR-
 13 CHASER.—A recipient State may use a credit re-
 14 ceived under paragraph (1) toward the non-Federal
 15 share requirement for any funds made available to
 16 carry out title 23 or chapter 53 of title 49, United
 17 States Code, in accordance with section 120(i) of
 18 title 23, United States Code.

19 (6) USE OF PROCEEDS FROM SALE OF CRED-
 20 ITS.—An originating State shall use the proceeds
 21 from the sale of a credit under paragraph (1) for a
 22 project eligible for assistance under title 23 or chap-
 23 ter 53 of title 49, United States Code.

24 (f) METROPOLITAN PLANNING ORGANIZATION AND
 25 LOCAL GOVERNMENT TOLL CREDIT ALLOCATION.—

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

7 (2) ALLOCATION OF TOLL CREDITS.—On ap-
 8 proval of the applicable metropolitan planning orga-
 9 nization or local government, a State may allocate
 10 toll credits purchased by the State for use by the
 11 metropolitan planning organization or local govern-
 12 ment.

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

18 (h) REPORTING REQUIREMENTS.—

19 (1) INITIAL REPORT.—Not later than 1 year
 20 after the date on which the pilot program is estab-
 21 lished, the Secretary shall submit to the Committee
 22 on Environment and Public Works of the Senate
 23 and the Committee on Transportation and Infra-
 24 structure of the House of Representatives a report
 25 on the progress of the pilot program.

1 (2) FINAL REPORT.—Not later than 3 years
2 after the date on which the pilot program is estab-
3 lished, the Secretary shall—

4 (A) submit to the Committee on Environ-
5 ment and Public Works of the Senate and the
6 Committee on Transportation and Infrastruc-
7 ture of the House of Representatives a report
8 that—

9 (i) determines whether a toll credit
10 marketplace is viable and cost effective;

11 (ii) describes the buying and selling
12 activities under the pilot program;

13 (iii) describes the average sale price of
14 toll credits;

15 (iv) determines whether the pilot pro-
16 gram could be expanded to more States or
17 all States or to non-State operators of toll
18 facilities;

19 (v) provides updated information on
20 the toll credit balance accumulated by each
21 State; and

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

1 (B) make the report under subparagraph
2 (A) publicly available on the website of the De-
3 partment.

4 (i) TERMINATION.—

5 (1) IN GENERAL.—The Secretary may termi-
6 nate the pilot program or the participation of any
7 State in the pilot program if the Secretary deter-
8 mines that—

9 (A) the pilot program is not serving a pub-
10 lic benefit; or

11 (B) it is not cost effective to carry out the
12 pilot program.

13 (2) PROCEDURES.—The termination of the pilot
14 program or the participation of a State in the pilot
15 program shall be carried out consistent with Federal
16 requirements for project closeout, adjustment, and
17 continuing responsibilities.

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