

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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

---

IN THE SENATE OF THE UNITED STATES

---

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

---



---

## 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;

1 (ii) toll revenue used by public, quasi-  
2 public, and private agencies to build, im-  
3 prove, or maintain highways, bridges, or  
4 tunnels that serve the public purpose of  
5 interstate commerce; and

6 (iii) an accounting of any Federal  
7 funds used by the public, quasi-public, or  
8 private agency to build, improve, or main-  
9 tain the toll facility, to validate that the  
10 credit has been reduced by a percentage  
11 equal to the percentage of the total cost of  
12 building, improving, or maintaining the fa-  
13 cility that was derived from Federal funds;

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

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

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

23 (3) LIMITATION ON SALES.—At any time, the  
24 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.