To authorize the Secretary of Transportation to establish a pedestrian and bicycle infrastructure credit assistance pilot program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Sires introduced the following bill; which was referred to the Committee on ____________________

A BILL

To authorize the Secretary of Transportation to establish a pedestrian and bicycle infrastructure credit assistance pilot program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “New Opportunities for Bicycle and Pedestrian Infrastructure Financing Act of 2014”.

(b) Table of Contents.—The table of contents for this Act is as follows:
Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Authority to provide assistance.
Sec. 4. Eligible entities.
Sec. 5. Projects eligible for assistance.
Sec. 6. Applications.
Sec. 7. Determination of eligibility and project selection.
Sec. 8. Secured loans and loan guarantees.
Sec. 9. Program administration.
Sec. 10. State and local permits.
Sec. 11. Definitions.
Sec. 12. Regulations.
Sec. 13. Funding.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) To promote investment in bicycling and walking infrastructure to create and connect transportation networks.

(2) To improve access to employment, business districts, and transit in communities traditionally underserved by existing transportation systems by establishing additional opportunities for financing nonmotorized infrastructure projects.

(3) To attract new investment to business districts and neighborhoods in low income communities.

(4) To leverage Federal funds and private investment in low income communities and those traditionally underserved by existing transportation systems.

SEC. 3. AUTHORITY TO PROVIDE ASSISTANCE.

The Secretary of Transportation may provide financial assistance under this Act to eligible entities to carry
out bicycle and pedestrian infrastructure projects selected for such assistance under this Act.

SEC. 4. ELIGIBLE ENTITIES.

In this Act, the term “eligible entity” means the following:

(1) A corporation.

(2) A public/private partnership.

(3) A joint venture.

(4) A trust.

(5) A State infrastructure financing authority.

SEC. 5. PROJECTS ELIGIBLE FOR ASSISTANCE.

Financial assistance may be provided under this Act only for the following types of projects:

(1) A project for the construction, planning, and design of on-road and off-road pathways for pedestrians, bicyclists, and other nonmotorized forms of transportation to create a comprehensive and connected transportation system, including sidewalks, bicycling infrastructure and parking, pedestrian and bicycle signals, traffic calming techniques, lighting and other safety-related infrastructure, and transportation projects to achieve compliance with the American with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).
(2) A project for the construction, planning, and design of infrastructure-related projects and systems that connect existing infrastructure to create a network and improve safety and access for nonmotorized users to transit, schools, and commercial areas.

(3) Innovative infrastructure for bicycling and walking, such as designs included in the National Association of City Transportation Officials guide for urban street design, to enhance the ability of communities to develop solutions to increase non-motorized travel.

(4) A project for the conversion and use of abandoned railroad corridors for trails for pedestrians, bicyclists, or other nonmotorized transportation users to connect to or expand an existing network of bicycle and pedestrian facilities.

(5) A bike share program as a standalone project or in conjunction with other infrastructure projects.

SEC. 6. APPLICATIONS.

(a) In general.—The Secretary shall provide for eligible entities to submit applications for selection of eligible projects to receive financial assistance under this Act.
at such time, in such manner, and containing such inform-

(b) COMBINED PROJECTS.—The Secretary shall pro-
vide, only in the case of a State infrastructure financing
authority, that such an entity may submit a single applica-
tion for a combination of projects, each of which is an
eligible project under section 8(b).

SEC. 7. DETERMINATION OF ELIGIBILITY AND PROJECT SE-

(a) SELECTION OF PROJECTS.—Using the selection
criteria under subsection (d), the Secretary shall select,
from applications submitted pursuant under this Act, eli-
gible projects that meet the criteria under subsections (b)
and (e) for financial assistance under this Act.

(b) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

Amounts from a loan made or guaranteed under this Act
provided for an eligible project may be used to pay the
costs of carrying out such project, including costs of—

(1) development-phase activities, including plan-
ning, feasibility analysis, revenue forecasting, envi-
ronmental review, permitting, preliminary engineer-
ing and design work, and other preconstruction ac-
tivities;

(2) construction, reconstruction, rehabilitation,
and replacement activities;
(3) the acquisition of real property (including land relating to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment;

(4) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction; and

(5) refinancing interim construction funding, long-term project obligations, or a secured loan or loan guarantee made under this Act.

(c) Project Requirements.—An eligible project may not be selected to receive financial assistance under this Act unless the Secretary determines that the project meets all of the following criteria:

(1) Creditworthiness.—

(A) In General.—Subject to subparagraph (B), the project shall be creditworthy, as determined by the Secretary as applicable, to ensure that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment.

(B) Preliminary Rating Opinion Letter.—The Secretary shall require an applicant for each project to provide, as part of the appli-
cation for the project under this section, a pre-
liminary rating opinion letter from at least one
rating agency indicating that the senior project
obligations of the project (which may be the
Federal credit instrument) have the potential to
achieve an investment-grade rating.

(C) SPECIAL RULE FOR CERTAIN COM-
BINED PROJECTS.—The Secretary shall develop
a credit evaluation process for a Federal credit
instrument provided to a State infrastructure
financing authority for a project described in
subsection (b), which may include requiring the
 provision of a preliminary rating opinion letter
from at least one rating agency.

(2) ELIGIBLE PROJECT COSTS.—The costs of
an eligible project shall be reasonably anticipated to
be not less than $2,000,000.

(3) DEDICATED REVENUE SOURCES.—The Fed-
eral credit instrument for the project shall be repay-
able, in whole or in part, from dedicated revenue
sources that also secure the project obligations.

(4) PUBLIC SPONSORSHIP OF PRIVATE ENTI-
ties.—In the case of a project carried out by an en-
tity that is not a State or local government or an
agency or instrumentality of a State or local government, the project shall be publicly sponsored.

(5) **PUBLIC INVOLVEMENT PROCESS.**—The applicant shall show evidence of having incorporated a public involvement process in the application, and plans for continued public involvement through the implementation of the process. The public involvement processes shall be proactive and provide complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement. The processes shall provide for—

(A) reasonable public access to technical and policy information used in the development of the application;

(B) adequate public notice of public involvement activities and time for public review and comment at key decision points;

(C) a process for demonstrating explicit consideration and response to public input during the planning and program development process; and

(D) a process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such
as low-income and minority households which may face challenges accessing employment and other amenities.

(d) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish a rolling application process in which projects that are eligible to receive credit assistance under subsection (a) shall receive credit assistance on terms acceptable to the Secretary, if adequate funds are available to cover the subsidy costs associated with the Federal credit instrument.

(2) ADEQUATE FUNDING NOT AVAILABLE.—If the Secretary fully obligates funding to eligible projects in a given fiscal year, and adequate funding is not available to fund a credit instrument, a project sponsor of an eligible project may elect to enter into a master credit agreement and wait until the following fiscal year or until additional funds are available to receive credit assistance.

(e) LOW-INCOME COMMUNITIES.—The Secretary shall ensure that not less that 25 percent of funds under this section are used to support projects in low-income communities.
(f) **FEDERAL REQUIREMENTS.**—Nothing in this section may be construed to alter, affect, or annul the applicability of any other Federal law.

## SEC. 8. SECURED LOANS AND LOAN GUARANTEES.

(a) **AUTHORITY.**—The Secretary may enter into agreements with eligible entities to make, and may make, secured loans to such entities as provided under this section for eligible projects selected under section 8.

(b) **USE.**—

(1) **IN GENERAL.**—The proceeds of a secured loan under this section shall be used only—

   (A) to finance project costs of an eligible project selected under section 8;

   (B) subject to paragraph (2), to refinance interim construction financing of eligible project costs of an eligible project selected under section 8; or

   (C) to refinance long-term project obligations or Federal credit instruments, if such refinancing provides additional funding capacity for the completion, enhancement, or expansion of a project that—

   (i) is selected under section 8; or

   (ii) was originally financed, in whole or in part, with amounts provided other
than under this Act, if the project otherwise meets the requirements of section 8.

(2) Limitation on Refinancing of Interim Construction Financing.—The proceeds of a secured loan under this section made for an eligible project may not be used for the purpose under paragraph (1)(B) after the expiration of the 12-month period beginning on the date of substantial completion of the project.

(c) Risk Assessment.—Before entering into an agreement under this subsection for a secured loan, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 8(c)(1)(B), shall determine an appropriate capital reserve subsidy amount for the secured loan, taking into account each such preliminary rating opinion letter.

(d) Investment-Grade Rating Requirement for Senior Obligations.—The execution of a secured loan under this section shall be contingent on receipt by the senior obligations of the project of an investment-grade rating.

(e) Terms and Limitations.—
(1) **MAXIMUM AMOUNT.**—The amount of a secured loan under this section shall not exceed the lesser of—

(A) an amount equal to 49 percent of the reasonably anticipated eligible project costs; or

(B) if the secured loan does not receive an investment-grade rating, the amount of the senior project obligations of the project.

(2) **PAYMENT.**—A secured loan under this section—

(A) shall be payable, in whole or in part, from State or local taxes, user fees, or other dedicated revenue sources that also secure the senior project obligations of the relevant project;

(B) shall include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

(C) may have a lien on revenues described in subparagraph (A), subject to any lien securing project obligations.

(3) **INTEREST RATE.**—The interest rate on a secured loan under this section shall be—

(A) equal to the yield on marketable United States Treasury securities of a similar
maturity to the maturity of the secured loan on
the date of execution of the loan agreement;
and
(B) fixed for the term of the loan.

(4) Maturity date.—

(A) In general.—Except as provided in
subparagraph (B), the final maturity date of a
secured loan under this section for an eligible
project shall be not later than 35 years after
the date of substantial completion of the
project.

(B) Special rule for State infrastructure financing authorities.—The
final maturity date of a secured loan under this
section made to a State infrastructure financing
authority shall be not later than 35 years after
the date on which loan amounts are first dis-
bursed.

(5) Nonsubordination.—A secured loan
under this section shall not be subordinated to the
claims of any holder of project obligations in the
event of bankruptcy, insolvency, or liquidation of the
obligor.

(6) Fees.—The Secretary may establish fees in
connection with a secured loan under this section, in
amounts sufficient to cover all or a portion of the
costs to the Federal Government of secured loans
under this section.

(7) USE OF PROCEEDS FOR PAYMENT OF NON-
FEDERAL SHARE.—The proceeds of a secured loan
under this section may be used to pay any non-Fed-
eral share required with respect to other funding ob-
tained for project costs, but only if such secured
loan is repaid using non-Federal funds.

(8) MAXIMUM FEDERAL INVOLVEMENT.—For
any project for which assistance is provided under
this Act, the total amount of Federal assistance
from all sources, including this Act, shall not exceed
80 percent of the total project cost.

(9) OTHER TERMS AND CONDITIONS.—A se-
cured loan provided for a project under this section
shall be subject to such other terms and conditions,
and contain such covenants, representations, war-
granties, and requirements (including requirements
for audits), as the Secretary determines to be appro-
priate.

(f) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish
a repayment schedule for each secured loan provided
under this section, based on the projected cash flow from project revenues and other repayment sources.

(2) COMMENCEMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), scheduled loan repayments of principal or interest on a secured loan under this section for an eligible project shall commence not later than 5 years after the date of substantial completion of the project.

(B) SPECIAL RULE FOR STATE INFRASTRUCTURE FINANCING AUTHORITIES.—Scheduled loan repayments of principal or interest on a secured loan made under this section to a State infrastructure financing authority shall commence not later than 5 years after the date on which amounts are first disbursed.

(3) DEFERRED PAYMENTS.—

(A) IN GENERAL.—If, at any time after the date of substantial completion of a project for which a secured loan is provided under this section, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and
interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred pursuant to subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (e)(3) until fully repaid; and

(ii) be amortized over the remaining term of the secured loan.

(C) CRITERIA.—Any payment deferral pursuant to subparagraph (A) shall be contingent on the project meeting—

(i) standards for reasonable assurance of repayment, as the Secretary shall establish; and

(ii) such other criteria as the Secretary may establish.

(4) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues from an eligible project that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obli-
gations may be applied annually to prepay a se-
cured loan under this section without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—A secured loan under this section
may be prepaid at any time, without penalty,
from the proceeds of refinancing from non-Fed-
eral funding sources.

(g) SALE OF SECURED LOANS.—

(1) IN GENERAL.—Subject to paragraph (2), if
the Secretary determines that the sale or reoffering
of a secured loan under this section for an eligible
project can be made on favorable terms, the Sec-
retary may sell the loan to another entity or reoffer
the loan into the capital markets as soon as prac-
ticable after the date of substantial completion of a
project and after providing notice to the obligor.

(2) CONSENT OF OBLIGOR.—In making a sale
or reoffering under paragraph (1), the Secretary
may not change the original terms and conditions of
the secured loan without the written consent of the
obligor.

(h) LOAN GUARANTEES.—

(1) IN GENERAL.—In lieu of making a secured
loan under this section for an eligible project, the
Secretary may provide a loan guarantee for a project
obligation for a project funded by a qualified lender
(as such term is defined in section 12), but only if
the Secretary determines that the cost as such term
is defined in section 502 of the Federal Credit Re-
form Act of 1990 (2 U.S.C. 661a) of the loan guar-
antee is substantially the same as or less than that
of making a secured loan.

(2) TERMS.—The terms of a loan guarantee
provided under this subsection shall be consistent
with the terms established in this section for a se-
cured loan, except that the interest rate on the guar-
anteed loan and any prepayment features shall be
negotiated between the obligor and the qualified
lender, subject to the consent of the Secretary.

SEC. 9. PROGRAM ADMINISTRATION.

(a) REQUIREMENT.—The Secretary shall establish a
uniform system to service the Federal credit instruments
made available under this Act.

(b) SERVICER.—

(1) IN GENERAL.—The Secretary may appoint
a financial entity to assist the Secretary in servicing
Federal credit instruments provided under this Act.

(2) DUTIES.—A servicer appointed under para-
graph (1) shall act as the agent for the Secretary.
(c) ASSISTANCE FROM EXPERTS.—The Secretary may retain the services, including counsel, of organizations and entities with expertise in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments provided under this Act.

SEC. 10. STATE AND LOCAL PERMITS.

The provision of financial assistance under this Act for an eligible project shall not—

(1) relieve any recipient of such assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law or regulation applicable to the construction or operation of the project.

SEC. 11. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ELIGIBLE ENTITY.—The term “eligible entity” means an entity listed in section 5 to receive financial assistance under this Act.

(2) ELIGIBLE PROJECT.—The term “eligible project” means a project described in section 6.
(3) **Eligible Project Costs.**—The term “eligible project costs” means, with respect to an eligible project, any costs of the project eligible under section 8 to be paid with amounts from a loan made or guaranteed under this Act.

(4) **Federal Credit Instrument.**—The term “Federal credit instrument” means a secured loan made, or loan guarantee provided, under section 9.

(5) **Investment-Grade Rating.**—The term “investment-grade rating” means, with respect to project obligations, a rating of BBB minus, Baa3, bbb minus, BBB (low), or higher as assigned by a rating agency.

(6) **Loan Guarantee.**—The term “loan guarantee” means any guarantee or other pledge by the Secretary to pay all or part of the principal of, and interest on, a loan or other debt obligation.

(7) **Obligor.**—The term “obligor” means—

(A) with respect to a Federal credit instrument that is a secured loan under section 9, the eligible entity that is primarily liable for payment of the principal of, or interest on, the loan; and

(B) with respect to a Federal credit instrument that is a loan guarantee under section
9(h), the eligible entity that is primarily liable
for payment of the loan or other debt obligation
repayment of which is guaranteed pursuant to
such section.

(8) PROJECT OBLIGATION.—The term “project
obligation” means, with respect to an eligible
project, any note, bond, debenture, or other debt ob-
ligation issued by an obligor in connection with the
financing of the project. Such term does not include
a Federal credit instrument.

(9) QUALIFIED LENDER.—

(A) IN GENERAL.—The term “qualified
lender” means any non-Federal qualified insti-
tutional buyer, as such term is defined in sec-
tion 230.144A(a) of title 17, Code of Federal
Regulations (or any successor regulation),
known as Rule 144A(a) of the Securities and
Exchange Commission and issued under the Se-
curities Act of 1933 (15 U.S.C. 77a et seq.).

(B) INCLUSIONS.—Such term includes—

(i) a qualified retirement plan (as de-
defined in section 4974(c) of the Internal
Revenue Code of 1986) that is a qualified
institutional buyer; and
(ii) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(10) **Rating Agency.**—The term “rating agency” means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).

(11) **Secretary.**—The term “Secretary” means the Secretary of Transportation.

(12) **Secured Loan.**—The term “secured loan” means a direct loan or other debt obligation issued by an obligor and funded by the Secretary pursuant to section 9.

(13) **State.**—The term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(14) **State Infrastructure Financing Authority.**—The term “State infrastructure financing authority” means the State entity established or designated by the Governor of a State to receive assistance under this Act.
(15) **Subsidy Amount.**—The term “subsidy amount” means, with respect to a Federal credit instrument, the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of the Federal credit instrument, as calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(16) **Substantial Completion.**—The term “substantial completion” means, with respect to a project, the earliest date on which a project is considered capable of performing the functions for which the project is designed.

**SEC. 12. REGULATIONS.**

The Secretary may issue such regulations as the Secretary considers appropriate to carry out this Act.

**SEC. 13. FUNDING.**

Section 608(a) of title 23, United States Code, is amended—

(1) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively; and

(2) by inserting after paragraph (3) the following:
“(4) SET ASIDES.—Of the total amount of funds made available to carry out this chapter for each fiscal year—

“(A) $11,000,000 shall be set aside for pedestrian and bicycle infrastructure projects described in the New Opportunities for Bicycle and Pedestrian Infrastructure Financing Act of 2013 unless and until the pilot program established by that Act is terminated; and

“(B) $1,000,000 for shall be set aside for administrative costs of the program.”.

SEC. 14. REPORT TO CONGRESS.

Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this Act, including a recommendation as to whether the objectives of this Act are best served—

(1) by continuing the program under the authority of the Secretary; and

(2) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this Act without Federal participation.