

115TH CONGRESS  
1ST SESSION

# S. 1607

To establish a pilot program to transform the Federal-aid highway program to a performance- and outcome-based program, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 20, 2017

Mr. HATCH 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 program to transform the Federal-aid highway program to a performance- and outcome-based 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 “Federal Highway Aid  
5 Performance-Based Improvement Act of 2017”.

6 **SEC. 2. PILOT PROGRAM.**

7 (a) IN GENERAL.—Chapter 1 of title 23, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

1 **“§ 171. Consolidated funding pilot program**

2 “(a) IN GENERAL.—The Secretary shall carry out a  
3 consolidated funding pilot program (referred to in this sec-  
4 tion as the ‘program’) in 3 States, as selected by the Sec-  
5 retary, that are eligible under subsection (c)—

6 “(1) to transform the Federal-aid highway pro-  
7 gram to a performance- and outcome-based program  
8 that refocuses investment of resources on transpor-  
9 tation projects that make progress toward the  
10 achievement of the national goals described in para-  
11 graphs (1) through (7) of section 150(b); and

12 “(2) to continue advancements made under the  
13 Moving Ahead for Progress in the 21st Century Act  
14 (Public Law 112–141; 126 Stat. 405) and the Fix-  
15 ing America’s Surface Transportation Act (Public  
16 Law 114–94; 129 Stat. 1312) to streamline program  
17 categories by demonstrating how additional flexi-  
18 bility would enable States to make investment deci-  
19 sions that better achieve State and national goals  
20 while advancing accountability and transparency of  
21 the Federal-aid highway program.

22 “(b) IMPLEMENTATION.—

23 “(1) IN GENERAL.—In carrying out the pro-  
24 gram, of those funds apportioned to a participating  
25 eligible State and after suballocations, set-asides,  
26 and pass-throughs made within each State to enti-

1       ties other than the transportation department of the  
 2       State (including a metropolitan planning organiza-  
 3       tion and a regional transportation planning organi-  
 4       zation), the Secretary shall treat the apportionments  
 5       remaining with the State transportation department  
 6       under the individual apportionment programs de-  
 7       scribed in section 104 as a single, consolidated ap-  
 8       portionment.

9               “(2) ELIGIBLE ACTIVITIES.—Activities eligible  
 10       under the program shall include all activities eligible  
 11       for the individual apportionment programs described  
 12       in section 104.

13       “(c) ELIGIBILITY.—To be eligible to participate in  
 14       the program—

15               “(1) a State selected by the Secretary under  
 16       subsection (a) shall—

17                       “(A) demonstrate that well-established per-  
 18       formance management systems are in place in  
 19       the State for the national goals for—

20                               “(i) safety described in section  
 21                               150(b)(1); and

22                               “(ii) infrastructure condition de-  
 23       scribed in section 150(b)(2);

24               “(B) demonstrate that the performance  
 25       management systems in place in the State in-

1           clude a system of metrics and performance  
2           measures that guide the State in using program  
3           funds and prioritizing projects—

4                   “(i) to ensure an effective use of re-  
5                   sources; and

6                   “(ii) to further the objectives of the  
7                   program; and

8                   “(C) demonstrate progress made toward  
9           achieving measurable performance of national  
10          goals for—

11                   “(i) congestion reduction described in  
12                   section 150(b)(3);

13                   “(ii) system reliability described in  
14                   section 150(b)(4);

15                   “(iii) freight movement and economic  
16                   vitality described in section 150(b)(5);

17                   “(iv) environmental sustainability de-  
18                   scribed in section 150(b)(6); and

19                   “(v) reduced project delivery delays  
20                   described in section 150(b)(7); and

21           “(2) the head of the State agency with primary  
22          jurisdiction over highways shall enter into a written  
23          agreement with the division administrator of the  
24          field office of the Federal Highway Administration  
25          located in the State and any metropolitan planning

1 organization located in the State, which shall specify  
2 which individual apportionment programs or por-  
3 tions of programs referred to in subsection (b) shall  
4 be included in the program in that State.

5 “(d) TERM.—The Secretary shall carry out the pro-  
6 gram for a term of not fewer than 6 years.

7 “(e) TERMINATION.—Participation of a State in the  
8 program may be terminated—

9 “(1) by the Secretary if—

10 “(A) the Secretary determines that the  
11 State is not adequately carrying out the respon-  
12 sibilities assigned to the State under the pro-  
13 gram;

14 “(B) the Secretary provides to the State—

15 “(i) notification of the determination  
16 of noncompliance under subparagraph (A);  
17 and

18 “(ii) a period of not less than 30 days  
19 during which the State may take such cor-  
20 rective action as the Secretary determines  
21 necessary to comply with the program; and

22 “(C) after the notification of noncompli-  
23 ance and the expiration of the period under  
24 subparagraph (B), the State has not taken sat-

1 isfactory corrective action, as determined by the  
2 Secretary; or

3 “(2) by the State at any time if—

4 “(A) not later than 90 days before the  
5 date of termination, the State provides to the  
6 Secretary notice of the termination; and

7 “(B) the State complies with such other  
8 terms or conditions as the Secretary determines  
9 to be necessary.

10 “(f) REPORTS.—

11 “(1) STATE REPORTING REQUIREMENTS.—Par-  
12 ticipating eligible States shall submit to the Sec-  
13 retary an annual report—

14 “(A) demonstrating how performance man-  
15 agement systems were used to guide the deci-  
16 sionmaking process of the State in the develop-  
17 ment of the statewide transportation improve-  
18 ment program of the State under section 135;  
19 and

20 “(B) describing the results of the program  
21 based on performance measures that dem-  
22 onstrate progress toward the achievement of  
23 performance goals.

1           “(2) REPORT TO CONGRESS.—The Secretary  
2       shall submit to Congress an annual report that de-  
3       scribes the administration of the program.”.

4       (b) CONFORMING AMENDMENT.—The analysis for  
5 chapter 1 of title 23, United States Code, is amended by  
6 inserting after the item relating to section 170 the fol-  
7 lowing:

“171. Consolidated funding pilot program.”.

