

AMENDMENT NO. _____ Calendar No. _____

Purpose: To include a payment and performance security requirement for certain infrastructure financing.

IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.

H. R. 3684

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. VAN HOLLEN (for himself, Mr. ROUNDS, Ms. ERNST, and Mr. KELLY) to the amendment (No. 2137) proposed by Ms. SINEMA (for herself and Mr. PORTMAN)

Viz:

1 At the end of title II of division A, add the following:

2 **SEC. 12 ____ . FEDERAL REQUIREMENTS FOR TIFIA ELIGI-**
3 **BILITY AND PROJECT SELECTION.**

4 (a) IN GENERAL.—Section 602(c) of title 23, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 “(3) PAYMENT AND PERFORMANCE SECU-
8 RITY.—

9 “(A) IN GENERAL.—The Secretary shall
10 ensure that the design and construction of a

1 project carried out with assistance under the
2 TIFIA program shall have appropriate payment
3 and performance security, regardless of whether
4 the obligor is a State, local government, agency
5 or instrumentality of a State or local govern-
6 ment, public authority, or private party.

7 “(B) WRITTEN DETERMINATION.—If pay-
8 ment and performance security is required to be
9 furnished by applicable State or local statute or
10 regulation, the Secretary may accept such pay-
11 ment and performance security requirements
12 applicable to the obligor if the Federal interest
13 with respect to Federal funds and other project
14 risk related to design and construction is ade-
15 quately protected.

16 “(C) NO DETERMINATION OR APPLICABLE
17 REQUIREMENTS.—If there are no payment and
18 performance security requirements applicable to
19 the obligor, the security under section 3131(b)
20 of title 40 or an equivalent State or local re-
21 quirement, as determined by the Secretary,
22 shall be required.”.

23 (b) APPLICABILITY.—The amendments made by this
24 section shall apply with respect to any agreement for cred-

- 1 it assistance entered into on or after the date of enactment
- 2 of this Act.