

116TH CONGRESS
1ST SESSION

H. R. 2692

To amend title 23, United States Code, to provide for the inclusion of broadband conduit installation in certain highway construction projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2019

Ms. ESHOO (for herself and Mr. MCKINLEY) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 23, United States Code, to provide for the inclusion of broadband conduit installation in certain highway construction projects, 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 “Broadband Conduit
5 Deployment Act of 2019”.

1 **SEC. 2. INCLUSION OF BROADBAND CONDUIT INSTALLA-**
2 **TION IN CERTAIN HIGHWAY CONSTRUCTION**
3 **PROJECTS.**

4 (a) IN GENERAL.—Chapter 3 of title 23, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 **“§ 331. Inclusion of broadband conduit installation in**
8 **certain highway construction projects**

9 “(a) REQUIREMENT.—

10 “(1) IN GENERAL.—Not later than 90 days
11 after the date of enactment of this section, the Sec-
12 retary shall issue a notification and requirement to
13 States that each State is required to evaluate the
14 need for broadband conduit in accordance with this
15 section as part of any covered highway construction
16 project.

17 “(2) CONSULTATION.—The evaluation shall be
18 done in consultation with local and national tele-
19 communications providers, including telecommuni-
20 cations service and equipment providers.

21 “(3) RESULTS OF EVALUATION.—If the evalua-
22 tion reveals an anticipated need in the next 15 years
23 for broadband conduit beneath hard surfaces to be
24 constructed by the project, the conduit shall be in-
25 stalled under the hard surfaces as part of the cov-
26 ered highway construction project.

1 “(4) DATE OF COMPLETION.—A State shall
2 complete the evaluation described in paragraph (1)
3 not later than 180 days after the date on which the
4 Secretary issues the notification described in para-
5 graph (1) to such State.

6 “(b) INSTALLATION REQUIREMENTS.—In carrying
7 out subsection (a), the Secretary shall ensure with respect
8 to a covered highway construction project that—

9 “(1) an appropriate number of broadband con-
10 duits, as determined by the Assistant Secretary of
11 Commerce for Communications and Information, are
12 installed along such highway to accommodate mul-
13 tiple broadband providers, with consideration given
14 to the availability of existing conduits;

15 “(2) the size of each such conduit is consistent
16 with industry best practices and is sufficient to ac-
17 commodate potential demand, as determined by the
18 Assistant Secretary of Commerce for Communica-
19 tions and Information; and

20 “(3) hand holes and manholes for fiber access
21 and pulling with respect to each such conduit are
22 placed at intervals consistent with industry best
23 practices, as determined by the Assistant Secretary
24 of Commerce for Communications and Information.

1 “(c) STANDARDS.—Not later than 90 days after the
2 date of enactment of this section, the Secretary, in con-
3 sultation with the Assistant Secretary of Commerce for
4 Communications and Information, shall establish stand-
5 ards, consistent with applicable requirements in section
6 156 of this title, section 1.23, part 645, and part 710 of
7 title 23, Code of Federal Regulations, and the Approved
8 Utility Accommodation Manual, to carry out subsection
9 (b) that consider—

10 “(1) the ability to accommodate broadband in-
11 stallation without impacting the safety, operations,
12 and maintenance of the highway facility, its users,
13 or others;

14 “(2) population density in the area of a covered
15 highway construction project;

16 “(3) the type of highway involved in such
17 project; and

18 “(4) existing broadband access in the area of
19 such project.

20 “(d) PULL TAPE.—Not later than 90 days after the
21 date of enactment of this section, the Secretary shall en-
22 sure that each broadband conduit installed pursuant to
23 this section includes a pull tape and is capable of sup-
24 porting fiber optic cable placement techniques consistent

1 with industry best practices, as determined by the Sec-
2 retary.

3 “(e) DEPTH OF INSTALLATION.—The Secretary shall
4 ensure that each broadband conduit installed pursuant to
5 this section is placed at a depth consistent with industry
6 best practices, as determined by the Secretary, and that,
7 in determining the depth of placement, consideration is
8 given to the location of existing utilities and the cable sep-
9 aration requirements of State and local electrical codes.

10 “(f) ACCESS.—The Secretary shall ensure that any
11 requesting broadband provider has access to each
12 broadband conduit installed pursuant to this section, on
13 a competitively neutral and nondiscriminatory basis, for
14 a charge not to exceed a cost-based rate.

15 “(g) WAIVER AUTHORITY.—The Secretary may
16 waive the application of this section if the Secretary deter-
17 mines that the waiver is appropriate with respect to a cov-
18 ered highway construction project based upon—

19 “(1) a showing of undue burden;

20 “(2) a determination that the installation of
21 broadband conduit beneath hard surfaces to be con-
22 structed as part of a covered highway construction
23 project is not necessary based on the availability of
24 existing broadband infrastructure;

25 “(3) a cost-benefit analysis; or

1 “(4) the consideration of other relevant factors.

2 “(h) COORDINATION WITH FCC.—In carrying out
3 this section, the Secretary and the Assistant Secretary of
4 Commerce for Communications and Information shall co-
5 ordinate with the Federal Communications Commission,
6 including in making determinations with respect to an ap-
7 propriate number of broadband conduits under subsection
8 (b)(1), potential demand under subsection (b)(2), and ex-
9 isting broadband access under subsection (c).

10 “(i) PUBLICATION OF CONDUIT AVAILABILITY.—Not
11 later than 1 year after the date of enactment of this sec-
12 tion, the Secretary shall provide information to the Fed-
13 eral Communications Commission and the Assistant Sec-
14 retary of Commerce for Communications and Information
15 for inclusion within the National Broadband Map.

16 “(j) DEFINITIONS.—In this section, the following
17 definitions apply:

18 “(1) BROADBAND.—The term ‘broadband’
19 means an Internet Protocol-based transmission serv-
20 ice that enables users to send and receive voice,
21 video, data, graphics, or a combination thereof.

22 “(2) BROADBAND CONDUIT.—The term
23 ‘broadband conduit’ means a conduit for fiber optic
24 cables that support broadband or, where appro-
25 priate, wireless facilities for broadband service.

1 “(3) COVERED HIGHWAY CONSTRUCTION
2 PROJECT.—The term ‘covered highway construction
3 project’ means a project to construct a new highway
4 or to construct an additional lane or paved shoulder
5 for an existing highway that is commenced after the
6 date of enactment of this section and that receives
7 funding under this title.

8 “(4) HARD SURFACES.—The term ‘hard sur-
9 faces’ means asphalt and concrete pavement, curb
10 and gutter, and sidewalk.”.

11 (b) CLERICAL AMENDMENT.—The analysis for chap-
12 ter 3 of title 23, United States Code, is amended by add-
13 ing at the end the following:

“331. Inclusion of broadband conduit installation in certain highway construc-
tion projects.”.

