

115TH CONGRESS  
2D SESSION

# H. R. 4800

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.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 16, 2018

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

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## 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 2018”.

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.—The Secretary shall require  
11 States to evaluate the need for broadband conduit in  
12 accordance with this section as part of any covered  
13 highway construction project.

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

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

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

1           “(1) an appropriate number of broadband con-  
2           duits, as determined by the Assistant Secretary of  
3           Commerce for Communications and Information, are  
4           installed along such highway to accommodate mul-  
5           tiple broadband providers, with consideration given  
6           to the availability of existing conduits;

7           “(2) the size of each such conduit is consistent  
8           with industry best practices and is sufficient to ac-  
9           commodate potential demand, as determined by the  
10          Assistant Secretary of Commerce for Communica-  
11          tions and Information; and

12          “(3) hand holes and manholes for fiber access  
13          and pulling with respect to each such conduit are  
14          placed at intervals consistent with industry best  
15          practices, as determined by the Assistant Secretary  
16          of Commerce for Communications and Information.

17          “(c) STANDARDS.—The Secretary, in consultation  
18          with the Assistant Secretary of Commerce for Commu-  
19          nications and Information, shall establish standards, con-  
20          sistent with applicable requirements in section 156 of this  
21          title, section 1.23, part 645, and part 710 of title 23, Code  
22          of Federal Regulations, and the Approved Utility Accom-  
23          modation Manual, to carry out subsection (b) that con-  
24          sider—

1           “(1) the ability to accommodate broadband in-  
2           stallation without impacting the safety, operations,  
3           and maintenance of the highway facility, its users,  
4           or others;

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

7           “(3) the type of highway involved in such  
8           project; and

9           “(4) existing broadband access in the area of  
10          such project.

11          “(d) PULL TAPE.—The Secretary shall ensure that  
12          each broadband conduit installed pursuant to this section  
13          includes a pull tape and is capable of supporting fiber  
14          optic cable placement techniques consistent with industry  
15          best practices, as determined by the Secretary.

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

23          “(f) ACCESS.—The Secretary shall ensure that any  
24          requesting broadband provider has access to each  
25          broadband conduit installed pursuant to this section, on

1 a competitively neutral and nondiscriminatory basis, for  
2 a charge not to exceed a cost-based rate.

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

7 “(1) a showing of undue burden;

8 “(2) a determination that the installation of  
9 broadband conduit beneath hard surfaces to be con-  
10 structed as part of a covered highway construction  
11 project is not necessary based on the availability of  
12 existing broadband infrastructure;

13 “(3) a cost-benefit analysis; or

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

15 “(h) COORDINATION WITH FCC.—In carrying out  
16 this section, the Secretary and the Assistant Secretary of  
17 Commerce for Communications and Information shall co-  
18 ordinate with the Federal Communications Commission,  
19 including in making determinations with respect to an ap-  
20 propriate number of broadband conduits under subsection  
21 (b)(1), potential demand under subsection (b)(2), and ex-  
22 isting broadband access under subsection (c).

23 “(i) PUBLICATION OF CONDUIT AVAILABILITY.—Not  
24 later than 1 year after the date of enactment of this sec-  
25 tion, the Secretary shall provide information to the Fed-

1 eral Communications Commission and the Assistant Sec-  
2 retary of Commerce for Communications and Information  
3 for inclusion within the National Broadband Map.

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

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

10 “(2) BROADBAND CONDUIT.—The term  
11 ‘broadband conduit’ means a conduit for fiber optic  
12 cables that support broadband or, where appro-  
13 priate, wireless facilities for broadband service.

14 “(3) COVERED HIGHWAY CONSTRUCTION  
15 PROJECT.—The term ‘covered highway construction  
16 project’ means a project to construct a new highway  
17 or to construct an additional lane or paved shoulder  
18 for an existing highway that is commenced after the  
19 date of enactment of this section and that receives  
20 funding under this title.

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

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

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

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