

[DISCUSSION DRAFT]

115TH CONGRESS
1ST SESSION

H. R. _____

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

Ms. ESHOO introduced the following bill; which was referred to the Committee on _____

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 2017”.

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 Administrator of the Na-
3 tional Telecommunications and Information Admin-
4 istration, are installed along such highway to accom-
5 modate multiple broadband providers, with consider-
6 ation given 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 Administrator; and

11 “(3) hand holes and manholes for fiber access
12 and pulling with respect to each such conduit are
13 placed at intervals consistent with industry best
14 practices, as determined by the Administrator.

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

22 “(1) the ability to accommodate broadband in-
23 stallation without impacting the safety, operations,
24 and maintenance of the highway facility, its users,
25 or others;

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

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

5 “(4) existing broadband access in the area of
6 such project.

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

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

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

24 “(g) WAIVER AUTHORITY.—The Secretary may
25 waive the application of this section if the Secretary deter-

1 mines that the waiver is appropriate with respect to a cov-
2 ered highway construction project based upon—

3 “(1) a showing of undue burden;

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

9 “(3) a cost-benefit analysis; or

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

11 “(h) COORDINATION WITH FCC.—In carrying out
12 this section, the Secretary and the Administrator shall co-
13 ordinate with the Federal Communications Commission,
14 including in making determinations with respect to an ap-
15 propriate number of broadband conduits under subsection
16 (b)(1), potential demand under subsection (b)(2), and ex-
17 isting broadband access under subsection (c).

18 “(i) PUBLICATION OF CONDUIT AVAILABILITY.—Not
19 later than 1 year after the date of enactment of this sec-
20 tion, the Secretary shall provide information to the Fed-
21 eral Communications Commission and the Administrator
22 for inclusion within the National Broadband Map.

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

1 “(1) ADMINISTRATOR.—The term ‘Adminis-
2 trator’ means the Administrator of the National
3 Telecommunications and Information Administra-
4 tion.

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

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

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

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

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

“331. Inclusion of broadband conduit installation in certain highway construction projects.”.