

112TH CONGRESS
1ST SESSION

S. 1939

To amend title 23, United States Code, to direct the Secretary of Transportation to require that broadband conduits be installed as part of certain highway construction projects, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 1, 2011

Ms. KLOBUCHAR (for herself and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend title 23, United States Code, to direct the Secretary of Transportation to require that broadband conduits be installed as part of 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 2011”.

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

4 Chapter 3 of title 23, United States Code, is amended
5 by adding at the end the following:

6 **“§ 330. Inclusion of broadband conduit installation in**
7 **certain highway construction projects**

8 “(a) DEFINITIONS.—In this section:

9 “(1) BROADBAND.—The term ‘broadband’
10 means an Internet Protocol-based transmission serv-
11 ice that enables users to send and receive voice,
12 video, data, or graphics, or a combination of those
13 items.

14 “(2) BROADBAND CONDUIT.—The term
15 ‘broadband conduit’ means a conduit for fiber optic
16 cables that support broadband or, where appro-
17 priate, wireless facilities for broadband service.

18 “(3) COVERED HIGHWAY CONSTRUCTION
19 PROJECT.—The term ‘covered highway construction
20 project’ means a project to construct a new highway
21 or to construct an additional lane or shoulder for an
22 existing highway that—

23 “(A) is commenced after the date of enact-
24 ment of this section; and

25 “(B) receives funding under this title.

1 “(b) REQUIREMENT.—The Secretary shall require
2 States to install 1 or more broadband conduits in accord-
3 ance with this section as part of any covered highway con-
4 struction project.

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

9 “(1) an appropriate number of broadband con-
10 duits, as determined by the Secretary, are installed
11 along the highway to accommodate multiple
12 broadband providers, with consideration given to the
13 availability of existing conduits;

14 “(2) the size of each such conduit is consistent
15 with industry best practices and is sufficient to ac-
16 commodate potential demand, as determined by the
17 Secretary; and

18 “(3) hand holes and manholes for fiber access
19 and pulling with respect to each such conduit are
20 placed at intervals consistent with industry best
21 practices, as determined by the Secretary.

22 “(d) STANDARDS.—In establishing standards to
23 carry out subsection (c), the Secretary shall take into con-
24 sideration—

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

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

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

7 “(e) PULL TAPE.—Each broadband conduit installed
8 pursuant to this section shall include a pull tape and be
9 capable of supporting fiber optic cable placement tech-
10 niques consistent with industry best practices, as deter-
11 mined by the Secretary.

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

17 “(g) DEPTH OF INSTALLATION.—Each broadband
18 conduit installed pursuant to this section shall be placed
19 at a depth consistent with industry best practices, as de-
20 termined by the Secretary, after consideration is given to
21 the location of existing utilities and the cable separation
22 requirements of State and local electrical codes.

23 “(h) WAIVER AUTHORITY.—The Secretary may
24 waive the application of this section or any provision of
25 this section if the Secretary determines that, upon a show-

1 ing of undue burden or that a covered highway construc-
 2 tion project is not necessary based on the availability of
 3 existing broadband conduit infrastructure, cost-benefit
 4 analysis, or consideration of other relevant factors, the
 5 waiver is appropriate with respect to a covered highway
 6 construction project.

7 “(i) COORDINATION WITH FCC.—In carrying out
 8 this section, the Secretary shall coordinate with the Fed-
 9 eral Communications Commission, including with respect
 10 to determinations regarding—

11 “(1) potential demand under subsection (c)(2);

12 “(2) existing broadband access under subsection
 13 (d)(3);

14 “(3) pull tape requirements under subsection
 15 (e); and

16 “(4) depth-of-installation standards under sub-
 17 section (g).”.

18 **SEC. 3. CONFORMING AMENDMENT.**

19 The analysis for chapter 3 of title 23, United States
 20 Code, is amended by adding at the end the following:

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

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