

1 S.78

2 Introduced by Senators Illuzzi, Ashe, Carris, Doyle and Galbraith

3 Referred to Committee on

4 Date:

5 Subject: Telecommunications; government reorganization; cellular, smart

6 grid, and broadband deployment; permitting

7 Statement of purpose: This bill proposes to establish policies and programs

8 designed to facilitate statewide cellular, smart grid, and broadband deployment

9 in Vermont by the end of the year 2013.

10 An act relating to the advancement of cellular, broadband, smart grid, and
11 other technology infrastructure in Vermont

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 * * * Legislative Findings * * *

14 Sec. 1. PURPOSE AND FINDINGS

15 (a) It is the purpose of this act to establish policies and programs designed
16 to achieve statewide cellular, broadband, and smart grid deployment in
17 Vermont by the end of the year 2013. Although these technologies are
18 deployed by private sector providers, state regulation of the
19 telecommunications industry as well as government financial assistance can
20 have a significant impact on private sector decisions to invest in and deploy

1 infrastructure, particularly in underserved and unserved areas of the state.

2 Vermont initiatives must recognize that:

3 (1) the availability of high-speed Internet access will spur economic
4 growth and job creation;

5 (2) cellular telephone service is increasingly becoming the telephone
6 service of choice for consumers and at the same time can serve as a lifeline for
7 those who choose it; and

8 (3) smart grid technology will create jobs and boost efficiency and
9 energy conservation, while facilitating the drive to expand broadband Internet
10 access.

11 (b) The general assembly finds that:

12 (1) The Vermont telecommunications authority (VTA), established
13 under No. 79 of the Acts of 2007, has made significant steps toward providing
14 universal access to affordable cellular and broadband services in Vermont.

15 (2) The general assembly has made substantial investments in
16 furtherance of the goals of the VTA. For example, in fiscal year 2011, the
17 general assembly appropriated \$7,350,000.00 to the VTA to bring broadband
18 services to unserved target communities and underserved business districts,
19 pursuant to Sec. 2(b) of No. 161 and Sec. 4 of No. 78 of the Acts of the 2009
20 Adj. Sess. (2010).

1 (3) In 2010, under the American Recovery and Reinvestment Act of
2 2009 (ARRA), Pub.L. No. 111-5, grants and loans totaling approximately
3 \$174,108,400.00 have been secured to fund major broadband initiatives in
4 Vermont, including the building of last-mile and middle-mile infrastructure, as
5 well as broadband adoption and mapping grants.

6 (4) The ARRA broadband funds flow through two nonregulatory
7 government entities: the National Telecommunications and Information
8 Administration (NTIA) and the rural utilities service (RUS) within the United
9 States Department of Agriculture. The NTIA funds can be used to provide
10 services in unserved and underserved areas, whereas the RUS funds can only
11 be used to provide services in unserved areas.

12 (5) Of the six ARRA awards secured by Vermont broadband projects,
13 the largest is the Wireless Open World (WOW), which promises near universal
14 coverage in Vermont through the use of TriBand 4G LTE wireless broadband
15 technology. For this project, Vermont Telephone Company (VTel) was
16 awarded a \$81,664,754.00 grant and a \$35,166,081.00 loan.

17 (6) Other ARRA-funded projects include:

18 (A) Vermont Fiber Link, a public-private partnership between the
19 VTa and Sovernet Fiber Corporation, which received a \$33,393,402.00 grant
20 to bring broadband to Vermont's key community anchor institutions.

1 (B) Vermont Broadband Enhanced Learning Link (VT BELL), for
2 which VTel received a \$12,256,492.00 grant to address bandwidth and
3 transport capacity shortage in the state's existing middle-mile infrastructure.

4 (C) Rural Broadband Advancement Project, for which Waitsfield and
5 Champlain Valley Telecom received a \$3,891,000.00 grant and a
6 \$1,668,000.00 loan to deploy fiber-to-the-home technology in rural service
7 areas.

8 (D) Vermont Community Broadband Project, e-Vermont, for which
9 the Vermont council on rural development received a \$2,525,675.00 grant to
10 increase Internet access and adoption in 24 small, mostly rural communities.

11 (E) Vermont Broadband Mapping, for which the Vermont center for
12 geographic information received a \$3,542,996.00 grant to create a
13 comprehensive inventory of broadband service availability, among other
14 things.

15 (7) In addition, Vermont utilities have received \$69 million in ARRA
16 matching funds through the federal Department of Energy to finish building a
17 smart grid statewide.

18 (8) The VTA is presently authorized to use up to \$40,000,000.00 in
19 revenue bonding backed by the moral obligation of the state for the purpose of
20 financing cellular and broadband projects. To date, no bonds have been issued.

1 (9) With the advances already attained by the VTA coupled with the
2 recent influx of federal dollars for broadband and smart grid initiatives,
3 Vermont is well positioned to achieve the goal of providing universal
4 availability of cellular and broadband service throughout the state.

5 (10) It is imperative, however, that the state establish sufficient
6 mechanisms for public oversight, transparency, efficiency, and coordination.

7 (11) With the massive infusion of federal dollars to build out
8 telecommunications infrastructure in Vermont, the VTA needs to reexamine its
9 role in providing funds and its support for cellular and broadband deployment
10 to avoid creation of an unfair advantage to those providers not in partnership or
11 otherwise associated with the VTA.

12 (12) All ARRA broadband funds must be expended within three years or
13 they revert to the federal government. To insure federal timelines are met, a
14 thorough but expedited permitting process must be available for the build-out
15 of telecommunications facilities.

16 (13) It is imperative that Vermont create a regulatory environment in
17 which all telecommunications carriers can compete fairly.

18 (14) It is also imperative that Vermont pursue telecommunications
19 infrastructure deployment in a manner consistent with the state's long-standing
20 principles of stewardship. Notably, Vermont is ranked fifth in the world for
21 "destination stewardship" by the National Geographic Society's Center for

1 Sustainable Destination, as published in the November–December 2010 issue
2 of National Geographic Traveler magazine.

3 * * * Telecommunications Facilities, Certificates of Public Good * * *

4 Sec. 2. 30 V.S.A. § 248a is amended to read:

5 § 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS
6 FACILITIES

7 (a) Certificate. Notwithstanding any other provision of law, if the applicant
8 seeks approval for the construction or installation of telecommunications
9 facilities that are to be interconnected with other telecommunications facilities
10 proposed or already in existence, the applicant may obtain a certificate of
11 public good issued by the public service board under this section, which the
12 board may grant if it finds that the facilities will promote the general good of
13 the state consistent with subsection 202c(b) of this title. A single application
14 may seek approval of one or more telecommunications facilities. An
15 application under this section shall include a copy of each application for any
16 other state permit, certificate, or approval already requested.

17 (b) Definitions. For the purposes of this section:

18 (1) “Ancillary improvements” means telecommunications equipment
19 and site improvements that are primarily intended to serve a
20 telecommunications facility, including utility connections; fencing; equipment
21 cabinets or shelters; emergency backup generators; and access roads.

1 (2)(A) “De minimis modification” means a proposed addition,
2 modification, replacement, or removal of telecommunications equipment,
3 antennas, or ancillary improvements at a lawfully constructed
4 telecommunications facility or on an existing support structure, whether or not
5 the structure was constructed as a telecommunications facility, or a
6 reconstruction of such a facility or existing support structure, that does not
7 substantially alter the character or impact of the telecommunications facility or
8 existing structure.

9 (B) A “de minimis modification” also means the addition,
10 modification, or replacement of telecommunications equipment, antennas, or
11 ancillary improvements on a telecommunications facility or existing support
12 structure, provided:

13 (i) The height and width of the facility or structure, excluding
14 equipment, antennas, or ancillary improvements, are not increased;

15 (ii) The total amount of impervious surface surrounding the
16 facility or structure is not increased by more than 300 square feet;

17 (iii) The total height or width of the facility or structure, including
18 equipment, antennas, and ancillary improvements, is not increased by more
19 than 10 feet; and

20 (iv) The additional equipment, antennas, or ancillary
21 improvements on the support structure, excluding cabling, does not increase

1 the aggregate surface area of the faces of the equipment, antennas, or ancillary
2 improvements on the support structure by more than 75 square feet.

3 (3)(A) “Limited size and scope” means:

4 (i) A new telecommunications facility, including any ancillary
5 improvements, that does not exceed 140 feet in height; or

6 (ii) An addition, modification, replacement, or removal of
7 telecommunications equipment at a lawfully constructed telecommunications
8 facility or on an existing support structure, and ancillary improvements, that
9 would result in a facility of a total height of less than 200 feet and does not
10 increase the width of the existing support structure by more than 20 feet.

11 (B) For construction described in subdivision (2)(A) of this
12 subsection to be of limited size and scope, it shall not disturb more than one
13 acre of earth. The one-acre limit under this subdivision shall include any
14 means of motorized access to the facility or structure. For purposes of this
15 subdivision, “disturbed earth” means the exposure of soil to the erosive effects
16 of wind, rain, or runoff.

17 (4) “Telecommunications facility” means a communications facility that
18 transmits and receives signals to and from a local, state, national, or
19 international network used primarily for two-way communications for
20 commercial, industrial, municipal, county, or state purposes and any associated
21 support structure that is proposed for construction or installation which is

1 primarily for communications purposes, and any ancillary improvements that
2 are proposed for construction or installation and are primarily intended to serve
3 the communications facilities or support structure.

4 ~~(2)~~ An applicant may seek approval of construction or installation of a
5 telecommunications facility whether or not the telecommunications facility is
6 attached to an existing structure.

7 (5) "Wireless service" means any commercial mobile radio service,
8 wireless service, common carrier wireless exchange service, cellular service,
9 personal communications service (PCS), specialized mobile radio service,
10 paging service, wireless data service, or public or private radio dispatch
11 service.

12 (c) Findings. Before the public service board issues a certificate of public
13 good under this section, it shall find that:

14 (1) The proposed facility will not have an undue adverse effect on
15 aesthetics, historic sites, air and water purity, the natural environment, ~~and~~ the
16 public health and safety, and the public's use and enjoyment of the I-89 or I-91
17 scenic corridors or of a highway that has been designated as a scenic road
18 pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C. § 162,
19 with due consideration having been given to the relevant criteria specified in
20 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K).

1 (2) Unless there is good cause to find otherwise, substantial deference
2 has been given to the land conservation measures in the plans of the affected
3 municipalities and the recommendations of the municipal legislative bodies
4 and the municipal and regional planning commissions regarding the municipal
5 and regional plans, respectively. Nothing in this section or other provision of
6 law shall prevent a municipal body from basing its recommendations on an
7 ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under
8 24 V.S.A. chapter 117 by the municipality in which the facility is located. A
9 letter of support for the application from an affected municipal legislative body
10 or municipal or regional planning commission shall be a rebuttable
11 presumption of compliance with the municipal or regional plan, respectively.

12 (3) If the proposed facility relates to the provision of wireless service,
13 the proposed facility reasonably cannot be collocated on or at an existing
14 telecommunications facility. In making this determination, the board shall
15 consider whether:

16 (A) Existing telecommunications facilities are too far from the area
17 of needed coverage to function adequately or cannot accommodate the
18 proposed equipment at an elevation necessary to function reasonably;

19 (B) The proposed facility would cause the structural or spatial
20 capacity of the existing facility to be exceeded, and the existing facility cannot

1 be reinforced, modified, or replaced to accommodate planned equipment at a
2 reasonable cost;

3 (C) The proposed facility would materially affect the usefulness of
4 other equipment at the existing facility, and this impact cannot be mitigated or
5 prevented at a reasonable cost; and

6 (D) Collocation of the facility on or at an existing facility would
7 cause an undue adverse effect on aesthetics.

8 (d) Existing permits. When issuing a certificate of public good under this
9 section, the board shall give due consideration to all conditions in an existing
10 state or local permit and shall harmonize the conditions in the certificate of
11 public good with the existing permit conditions to the extent feasible.

12 (e) Notice. No less than 45 days prior to filing ~~a petition~~ an application for
13 a certificate of public good under this section, the applicant shall serve written
14 notice of an application to be filed with the board pursuant to this section to the
15 legislative bodies and municipal and regional planning commissions in the
16 communities in which the applicant proposes to construct or install facilities;
17 the secretary of the agency of natural resources; the division for historic
18 preservation; the commissioner of the department of public service and its
19 director for public advocacy; and the landowners of record of property
20 adjoining the project sites. In addition, at least one copy of each application
21 shall be filed with each of these municipal and regional planning commissions.

1 Upon motion or otherwise, the public service board shall direct that further
2 public or personal notice be provided if the board finds that such further notice
3 will not unduly delay consideration of the merits and that additional notice is
4 necessary for fair consideration of the application.

5 (f)(1) Review period. ~~Unless~~ If the public service board identifies
6 determines that an application raises does not raise a significant issue, and if
7 there are no adverse comments received within 21 days of written notice being
8 served pursuant to subsection (e) of this section, the board shall issue a final
9 determination on an application filed pursuant to this section within ~~90~~ 45 days
10 of its filing or, if the original filing did not substantially comply with the public
11 service board's rules, within ~~90~~ 45 days of the date on which the clerk of the
12 board notifies the applicant that the filing is complete.

13 (2) If the board determines that an application does not raise a
14 significant issue but adverse comments are received within 21 days of written
15 notice being served pursuant to subsection (e) of this section, the board shall
16 issue a final determination on an application filed pursuant to this section
17 within 90 days of its filing or, if the original filing did not substantially comply
18 with the public service board's rules, within 90 days of the date on which the
19 clerk of the board notifies the applicant that the filing is complete.

20 (3) If the board rules that an application raises a significant issue, it shall
21 issue a final determination on an application filed pursuant to this section

1 within ~~180~~ 120 days of its filing or, if the original filing did not substantially
2 comply with the public service board's rules, within ~~180~~ 120 days of the date
3 on which the clerk of the board notifies the applicant that the filing is
4 complete.

5 * * *

6 (i) Sunset of board authority. Effective ~~July 1, 2011~~ July 1, 2014, no new
7 applications for certificates of public good under this section may be
8 considered by the board.

9 (j)(1) ~~Minor applications~~ Telecommunications facilities of limited size and
10 scope. The board may, subject to such conditions as it may otherwise lawfully
11 impose, issue a certificate of public good in accordance with the provisions of
12 this subsection and without the notice and hearings required by any provision
13 other than subdivision (2) of this subsection if the board finds that such
14 facilities will be of limited size and scope, and the ~~petition~~ application does not
15 raise a significant issue with respect to the substantive criteria of this section.
16 In proceedings under this subsection, the applicant's certification that the
17 application complies with subdivision (c)(1) of this section shall establish a
18 rebuttable presumption that the requirements of that subdivision have been
19 met. If an applicant requests approval of multiple telecommunications
20 facilities in a single application under this section, the board may issue a
21 certificate of public good in accordance with the provisions of this subsection

1 for all or some of the telecommunications facilities described in the ~~petition~~
2 application.

3 (2)(A) Any party seeking to proceed under the procedures authorized by
4 this subsection shall file a proposed certificate of public good and proposed
5 findings of fact with its ~~petition~~ application, and provide notice and a copy of
6 the ~~petition~~ application, proposed certificate of public good, and proposed
7 findings of fact to the commissioner of ~~the department of~~ public service and its
8 director for public advocacy, the secretary of the agency of natural resources,
9 the division for historic preservation, and each of the legislative bodies and
10 municipal and regional planning commissions in the communities in which the
11 applicant proposes to construct or install facilities. ~~The~~ At the same time the
12 applicant files the documents specified in this subdivision with the board, the
13 applicant shall give written notice of the proposed certificate to the landowners
14 of record of property adjoining the project site or sites unless the board has
15 previously determined on request of the applicant that good cause exists to
16 waive or modify the notice requirement with respect to such landowners. Such
17 notice shall request comment to the board within 21 days of the notice on the
18 question of whether the ~~petition~~ application raises a significant issue with
19 respect to the substantive criteria of this section. If the board finds that a
20 ~~petition~~ application raises a significant issue with respect to the substantive
21 criteria of this section, the board shall hear evidence on any such issue.

1 (B) ~~Any~~ An applicant seeking a waiver or modification of notice to
2 adjoining landowners under this subsection shall file a request for such a
3 waiver or modification with the chair or the public service board not later than
4 30 days prior to serving written notice under subsection 248a(e) of this section,
5 together with a description of the project and its location, the applicant's
6 reasons for seeking waiver or modification, and the applicant's demonstration
7 that the standard for granting a waiver or modification is met. Any granting of
8 such a waiver or modification shall be based on a determination that the
9 landowners subject to the waiver or modification could not reasonably be
10 affected by one or more of the proposed facilities, and that notice to such
11 landowners would constitute a significant administrative burden without
12 corresponding public benefit. The chair shall rule on a waiver or modification
13 request under this subsection within 14 days of the filing of the request.

14 (C) If the board accepts a request to consider an application under the
15 procedures of this subsection, then unless the public service board
16 subsequently determines that an application raises a significant issue, the board
17 shall issue a final determination on an application filed pursuant to this
18 subsection within 45 days of its filing or, if the original filing did not
19 substantially comply with the public service board's rules, within 45 days of
20 the date on which the clerk of the board notifies the applicant that the filing is
21 complete. If, subsequent to acceptance of an application under this subsection,

1 the board rules that an application raises a significant issue, it shall issue a final
2 determination on an application filed pursuant to this subsection within 90 days
3 of its filing or, if the original filing did not substantially comply with the public
4 service board's rules, within 90 days of the date on which the clerk of the
5 board notifies the applicant that the filing is complete.

6 * * *

7 (k) De minimis modifications. An applicant intending to make a de
8 minimis modification of a telecommunications facility shall provide written
9 notice of its intent, including a description of the de minimis modification, its
10 plans for the de minimis modification, and its certification that the project
11 constitutes a de minimis modification under this section, to the following: the
12 landowner of record of the property on which the facility is located; the
13 legislative body of the municipality in which the applicant proposes to
14 undertake such limited modifications to the facility; and the commissioner of
15 public service and its director for public advocacy. Unless an objection to the
16 classification of a proposed project as a de minimis modification is filed with
17 the board within 21 days of this notice, a certificate of public good shall be
18 issued. Objections may only be filed by persons entitled to notice of this
19 proposed project pursuant to this subdivision. If an objection of the
20 classification of the proposed project as a de minimis modification is timely
21 filed with the board, the board may determine whether the intended project

1 meets the definition of de minimis modification established in subdivision
2 (b)(1) of this section.

3 (l) Rules. The public service board may issue rules or orders implementing
4 and interpreting this section. In developing such rules and orders, the board
5 shall seek to simplify the application and review process as appropriate and
6 may by rule or order waive the requirements of this section that the board
7 determines are not applicable to telecommunications facilities of limited size
8 or scope. Determination by the board that ~~a petition~~ an application raises a
9 substantial issue with regard to one or more substantive criteria of this section
10 shall not prevent the board from waiving other substantive criteria that it has
11 determined are not applicable to such a telecommunications facility.

12 (m) Notwithstanding any other provision of this section, with respect to an
13 application for a telecommunications facility:

14 (1) The application may be filed with the commissioner of public
15 service for approval rather than with the public service board; and

16 (2) If the application is filed with the commissioner:

17 (A) On filing, the applicant shall send a copy of the application,
18 together with a notice that the commissioner's approval is requested and that
19 comments may be submitted within the period described in subdivision (2)(B)
20 of this subsection, to the legislative body and municipal and regional planning
21 commission in each community in which the applicant proposes to construct or

1 install the facility; the secretary of natural resources; the division for historic
2 preservation; and the landowners of record of property adjoining the facility
3 site;

4 (B) The provisions of 3 V.S.A. §§ 809–815 shall not apply to the
5 proceeding before the commissioner, and persons shall submit any written
6 comments on the application to the commissioner not later than 10 days
7 following certification by the applicant that copies of the application and notice
8 were sent as required by subdivision (A) of this subdivision (2);

9 (C) The commissioner shall determine whether the application
10 satisfies the requirements of subsection (c) of this section and whether a
11 certificate of public good under subsection (a) of this section should be issued;

12 (D) The commissioner shall have the same authority to condition a
13 certificate that the public service board otherwise would have under this
14 section;

15 (E) The decision of the commissioner on the application shall be
16 issued within 15 days of when the commissioner determines the application to
17 be complete and shall have the same legal effect as a decision of the board; and

18 (F) If aggrieved, the applicant or other party who filed written
19 comments with the commissioner may appeal the decision of the commissioner
20 within 15 days to the chair of the public service board.

1 (G) The appellant shall provide notice of the appeal to the
2 commissioner, the applicant if other than the appellant, and all parties that filed
3 written comments with the commissioner. The filing of an appeal shall not
4 automatically stay the decision.

5 (H) The chair shall hold a de novo hearing as soon as practicable on
6 those issues that have been appealed and shall issue his or her final decision
7 within 60 days of the date the appeal was filed. The proceeding shall be
8 summary in nature. The record created by the commissioner shall be admitted
9 into evidence. In extraordinary circumstances, the chair may authorize use of
10 discovery, subject to the inherent time constraints required because of the
11 subject matter. The Vermont Rules of Evidence shall not apply, except for
12 those rules respecting privilege. Affidavits of parties and witnesses shall be
13 admissible evidence that may be rebutted by witnesses or affidavits offered by
14 other parties. Other evidence is admissible if it is of a type commonly relied
15 upon by reasonably prudent persons in the conduct of their daily affairs.
16 Telephone testimony shall be authorized unless otherwise ordered for good
17 cause shown. Any person shall be entitled, but not required, to be represented
18 by an attorney.

19 (I) The commissioner is authorized to appoint a designee to carry out
20 his or her responsibilities under this subsection.

* * * Stormwater Discharge Permits;

Telecommunications Facilities * * *

Sec. 3. 10 V.S.A. § 1264 is amended to read:

§ 1264. STORMWATER MANAGEMENT

* * *

(j) Notwithstanding any other provision of law, if an application to discharge stormwater runoff pertains to a telecommunications facility as defined in 30 V.S.A. § 248a:

(1) Under the state permit program described in subsection (a) of this section, the secretary shall issue a decision on the application within 30 days of the date the secretary determines the application to be complete; and

(2) Under the federal NPDES program described in subsection (a) of this section, the secretary shall issue a decision on the application within 30 days of the date the secretary determines the application to be complete, unless complying with this 30-day requirement would cause the processing of the application to contravene applicable federal law, in which case the secretary shall issue a decision on the application at the earliest possible date consistent with federal requirements.

1 Sec. 3a. STORMWATER MANAGEMENT RULE; AGENCY OF
2 NATURAL RESOURCES

3 (a) The general assembly finds that:

4 (1) On enactment, Sec. 43 of No. 54 of the Acts of 2009 required the
5 agency of natural resources, by January 15, 2010, to amend its rules regarding
6 stormwater management to provide alternative guidance for permitting
7 renewable energy projects located at high elevations. The agency failed to
8 meet this deadline.

9 (2) Sec. 15 of No. 159 of the Acts of the 2009 Adj. Sess. (2010)
10 extended the deadline described in subdivision (1) of this subsection to
11 February 1, 2011. The agency proposed the required rule amendments but still
12 failed to meet the extended deadline.

13 (3) As required by Act 54, the agency's proposed rule amendments
14 apply to the permitting of stormwater discharges from renewable energy
15 projects located at high elevations; however, the substance of those
16 amendments is applicable as well to telecommunications facilities at the same
17 elevations.

18 (b) With respect to a stormwater discharge from a telecommunications
19 facility as defined in 30 V.S.A. § 248a, the agency of natural resources shall
20 apply the same provisions of its stormwater management rule, including those
21 provisions regarding a watershed hydrology protection credit, that it applies to

1 high elevation renewable energy projects, if the facility is located or is
2 proposed to be located at a high elevation as defined in those provisions and
3 the discharge is to a water that is not principally impaired by stormwater
4 runoff.

5 (c) No later than 30 days after the effective date of this act, the agency shall
6 conform its stormwater management rule to the provisions of this section. For
7 the purpose of this subsection, the agency is authorized to and shall use the
8 procedures for emergency rules pursuant to 3 V.S.A. § 844, except that the
9 agency need not determine that there exists an imminent peril to public health,
10 safety or welfare, and the provisions of 3 V.S.A. § 844(b) (expiration of
11 emergency rules) shall not apply.

12 * * * Communications Lines; Act 250; Acreage Determination * * *

13 Sec. 4. 10 V.S.A. § 6001(3)(C) is amended to read:

14 (C) For the purposes of determining jurisdiction under subdivisions
15 (3)(A) and (3)(B) of this section, the following shall apply:

16 * * *

17 (vi) Communications lines. For purposes of this subdivision,
18 “communications line” means a wireline or fiber-optic cable communications
19 facility that transmits and receives signals to and from a local, state, national,
20 or international network used primarily for two-way communications for
21 commercial, industrial, municipal, county, or state purposes. The following

1 improvements associated with the construction or installation of a
2 communications line shall not cause land to be counted toward the acreage
3 thresholds of subdivisions (3)(A)(i) and (ii) of this section:

4 (I) The attachment of a new or replacement cable or wire to an
5 existing structure.

6 (II) The replacement of an existing pole with a new pole that is
7 not more than ten feet taller than the pole it replaces.

8 * * * Telecommunications; Appeals;

9 Agency of Natural Resource Permits * * *

10 Sec. 5. 10 V.S.A. § 8501 is amended to read:

11 § 8501. PURPOSE

12 It is the purpose of this chapter to:

13 * * *

14 (5) Consolidate appeals of decisions related to renewable energy
15 generation plants and telecommunications facilities with review ~~by the public~~
16 ~~service board~~ under, respectively, 30 V.S.A. ~~§ 248~~ §§ 248 and 248a.

17 Sec. 6. 10 V.S.A. § 8506 is amended to read:

18 § 8506. RENEWABLE ENERGY PLANT; TELECOMMUNICATIONS

19 FACILITY; APPEALS

20 (a) Within 30 days of the date of the act or decision, any person aggrieved
21 by an act or decision of the secretary, under the provisions of law listed in

1 section 8503 of this title, or any party by right may appeal to the public service
2 board if the act or decision concerns a renewable energy plant for which a
3 certificate of public good is required under 30 V.S.A. § 248 or a
4 telecommunications facility for which the applicant has applied or has served
5 notice under 30 V.S.A. § 248a(e) that it will apply for approval under
6 30 V.S.A. § 248a. This section shall not apply to a facility that is subject to
7 section 1004 (dams before the Federal Energy Regulatory Commission) or
8 1006 (certification of hydroelectric projects) or chapter 43 (dams) of this title.

9 (b) For the purpose of this section, “board,” “plant,” and “renewable
10 energy” have the same meaning as under 30 V.S.A. § 8002, and
11 “telecommunications facility” has the same meaning as under 30 V.S.A.
12 § 248a.

13 * * *

14 (d) The public service board ~~may~~ shall consolidate or coordinate appeals
15 under this section with each other and with proceedings under 30 V.S.A. ~~§ 248~~
16 §§ 248 and 248a, where those appeals and proceedings all relate to the same
17 project, unless such consolidation or coordination would be clearly
18 unreasonable. In such a consolidated proceeding, the board’s decision shall be
19 issued as a single order that includes the necessary findings of fact and
20 conclusions of law and, if the decision is to approve the plant or facility, any
21 and all conditions of approval. This authority to consolidate or coordinate

1 appeals and proceedings shall not confer authority to alter the substantive
2 standards at issue in an appeal or proceeding.

3 * * *

4 (g) An appeal under this section shall be to the commissioner of public
5 service and not to the board if the act or decision of the secretary from which
6 appeal is taken pertains to a telecommunications facility for which an
7 application for a certificate of public good is filed with the commissioner of
8 public service under 30 V.S.A § 248a(m). Subsections (e) (de novo hearing)
9 and (f) (service of process, public service board rules, appeals to supreme
10 court) of this section shall not apply to such an appeal. Instead, the provisions
11 of 30 V.S.A. § 248a(m)(2) (procedure before commissioner; appeal to chair of
12 the board) shall apply. In deciding the appeal, the commissioner shall apply
13 the substantive standards that were before the secretary. The commissioner
14 shall consolidate appeals under this subsection with each other and with
15 proceedings under 30 V.S.A. § 248a(m), where those appeals and proceedings
16 all relate to the same project, unless such consolidation or coordination would
17 be clearly unreasonable. In such a consolidated proceeding, the
18 commissioner's decision shall be issued as a single order that includes the
19 necessary findings of fact and conclusions of law and, if the decision is to
20 approve the facility, any and all conditions of approval.

* * * Broadband; Historic Preservation;

Expedited Review * * *

Sec. 7. 22 V.S.A. § 723 is amended to read:

§ 723. DUTIES AND POWERS OF DIVISION AND STATE HISTORIC
PRESERVATION OFFICER

* * *

(c) The state historic preservation officer and the division shall adopt a procedure for the efficient review in accordance with this chapter and the National Historic Preservation Act, 16 U.S.C. chapter 1A, subchapter II, of undertakings related to the provision of broadband services, and shall take all feasible steps to effect such efficient review. Unless contrary to federal requirements, any review of pole attachments shall be conducted using a systemic approach. For the purpose of this subsection, “broadband” means high speed Internet access that meets the minimum technical objectives adopted by the department of public service pursuant to 30 V.S.A. § 8077(a).

* * * Implementation * * *

Sec. 8. IMPLEMENTATION

Within 90 days of the effective date of this act, the state historic preservation officer and the division for historic preservation shall adopt a procedure pursuant to Sec. 7 of this act, 22 V.S.A. § 723(c) (broadband; efficient review).

1 * * * Rapid Response Process for Pole Attachment Disputes * * *

2 Sec. 9. 30 V.S.A. § 2531 is added to read:

3 § 2531. POLE ATTACHMENTS; APPLICATIONS; DISPUTE

4 RESOLUTION

5 (a) Finding. It is in the best interest of Vermonters and the Vermont
6 economy for all broadband deployment projects, including those funded in
7 whole or in part with broadband funds under the American Recovery and
8 Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, to proceed in a timely
9 and coordinated manner.

10 (b) Filing of Applications. The chair of the public service board is
11 authorized to establish standards and procedures for the earliest feasible filing
12 of pole attachment applications such that pole-owning utilities are able to
13 complete their make-ready surveys and make-ready work pursuant to the
14 standards and time frames specified in public service board Rule 3.700 et seq.

15 (c) Dispute Resolution. Notwithstanding public service board Rule 3.710
16 (complaint procedures), if a dispute arises between an attaching entity and a
17 pole-owning utility or another attaching entity, the aggrieved party may file a
18 request for relief with the clerk of the public service board. The chair of the
19 public service board shall designate a hearing officer to resolve such requests
20 pursuant to the rapid response process prescribed in this section.

1 (d) Rapid Response Process. The rapid response process shall proceed as
2 follows:

3 (1) The applicant shall notify the party with whom there is a dispute that
4 it is planning to file a request for relief with the clerk on the next business day.

5 (2) The applicant shall file the request electronically with the clerk of
6 the board and copy the respondent and any other interested party, such as an
7 entity already attached to the pole or poles in dispute. The request shall
8 contain the name of the applicant, the date of filing, the times the applicant will
9 be available for a conference call on the second business day after the request
10 is filed, as well as sufficient information to indicate:

11 (A) the facts underlying the request;

12 (B) the harm which is resulting or could result to the applicant due to
13 the situation;

14 (C) the informal attempts made to resolve the dispute.

15 (D) what specifically about the situation requires immediate redress;
16 and

17 (E) a description of the steps which the parties have taken to resolve
18 the situation prior to the filing of the complaint.

19 (3) Within one business day of receiving a copy of the request, the
20 respondent shall electronically acknowledge its receipt of the request to the
21 clerk and the applicant and shall specify times when it will be available for a

1 conference call on the next business day. The respondent may respond to
2 factual issues in the request or demand that the request be dismissed or referred
3 to the full board, as appropriate, for reasons including that the dispute is not:

4 (A) ripe for review; or

5 (B) a matter that should be addressed pursuant to the rapid response
6 process.

7 (4) The clerk shall schedule a time for a preliminary conference call
8 within two business days of the filing of the request. During the preliminary
9 conference call, the hearing officer may consider any information he or she
10 deems relevant pursuant to the standards authorized in subsection (h) of this
11 section.

12 (5) If the matter is not resolved to the satisfaction of all parties, the
13 hearing officer may schedule a final conference call at which the hearing
14 officer may hear additional evidence and either issue an oral decision or
15 schedule time for a written decision.

16 (6) A final order shall be issued within 15 days after the filing of the
17 request. Unless stayed by the hearing officer upon request, the final order
18 remain in effect pending appeal.

19 (7) Within 10 business days after the final order is issued, a party may
20 appeal the final order to the chair of the public service board. The chair shall
21 take final action within 30 days after the filing of the appeal. Appeals to the

1 chair shall be on the record; however, the chair in his or her discretion may
2 elect to receive additional arguments.

3 (e) Caption and docket number. All documents, correspondences, and
4 references to a particular request should reference the original caption. Once a
5 docket number is assigned, all correspondence should reference that number.

6 (f) Preliminary relief. The hearing officer shall have authority to require
7 parties to take actions pending the final resolution of the proceeding in
8 consideration of the following: the likelihood that the relief requested would
9 be ordered at the conclusion of the rapid response process; the benefit to the
10 public or affected customers compared with the harm to the utility or other
11 customers; and, the public interest. In determining whether to grant
12 preliminary relief, the hearing officer shall also consider any associated costs.
13 Any party adversely affected by a decision under this subsection may appeal to
14 the chair of the public service board.

15 (g) Hearing officer authority. The hearing officer may dismiss or defer a
16 request without prejudice and direct the parties to continue negotiations. The
17 hearing officer may indicate a date on which, if the parties have still not
18 reached a resolution, the parties may refile the request. The hearing officer
19 may also determine that the issues in the request are policy issues that would
20 better be served in the broader context of a board investigation. In that case,

1 the hearing officer shall refer the matter to the chair of the public service
2 board.

3 (h) Summary proceeding. Any action filed under the rapid response
4 process contained in this section shall be summary in nature. The hearing
5 officer may authorize use of discovery, subject to the inherent time constraints
6 required because of the subject matter. The Vermont Rules of Evidence shall
7 not apply, except for those rules respecting privilege. Affidavits of parties and
8 witnesses shall be admissible evidence that may be rebutted by witnesses or
9 affidavits offered by other parties. Other evidence shall be admissible if it is of
10 a type commonly relied upon by reasonably prudent persons in the conduct of
11 their daily affairs. Telephone testimony shall be authorized unless otherwise
12 ordered for good cause shown. Any person shall be entitled, but not required,
13 to be represented by an attorney.

14 (i) Sunset. This section shall take effect on passage and shall be repealed
15 on July 1, 2014.

16 * * * Transmission and Distribution Poles; Fiber;

17 Nonexclusive Use * * *

18 Sec. 10. 30 V.S.A. § 8092 is amended to read:

19 § 8092. RATES; TERMS; CONDITIONS

20 * * *

1 (h)(1) A company may limit wireline attachments on electric transmission
2 structures exclusively carrying voltages of 110 kV or higher to fiber-optic
3 facilities attached and maintained by the company, if the company allows
4 communications service providers to use fiber-optic facilities installed and
5 maintained by the company and offers to install such fiber-optic facilities on
6 such electric transmission structures where there are not sufficient facilities for
7 use by communications service providers. Rates, terms, and conditions for
8 access to such company-attached and company-maintained facilities shall be
9 made available consistent with the requirements of this section.

10 (2) Notwithstanding any law or rule to the contrary, a company may not
11 enter into a contract with a communications service provider that provides
12 exclusive access to its company-attached and company-maintained fiber-optic
13 facilities. The terms and conditions of any contract entered into under this
14 section shall include a provision specifying that, if a communications service
15 provider leases fiber-optic capacity that is not used within 180 days of entering
16 the lease, the lease terms and conditions relative to that unused capacity shall
17 terminate.

18 * * *

19 (j) A company having electric transmission or distribution structures
20 carrying voltages of 110 kV or lower may not enter into a contract with a
21 communications service provider that provides exclusive access to its

1 company-attached and company-maintained fiber-optic facilities. The terms
2 and conditions of any contract entered into under this section shall include a
3 provision specifying that, if a communications service provider leases
4 fiber-optic capacity that is not used within 180 days of entering the lease, the
5 lease terms and conditions relative to that unused capacity shall terminate.

6 * * * Telecommunications: Study on Regulatory Exemption * * *

7 Sec. 11. TELECOMMUNICATIONS; REGULATORY EXEMPTION

8 (a) The commissioner of public service shall study the relative advantages
9 and disadvantages of permitting certain telecommunications carriers to avail
10 themselves of the regulatory exemption contained in 30 V.S.A. § 227d. In
11 particular, the commissioner shall limit his or her analysis to
12 telecommunications carriers that have incurred access line losses of greater
13 than 15 percent during the immediately preceding ten years in a service area.
14 The exemption would apply regardless of the number of subscriber lines the
15 carrier has installed in the aggregate statewide and regardless of whether a
16 competitive eligible telecommunications carrier has also been designated in the
17 applicable service area. The commissioner shall determine the impact that this
18 exemption would have on consumers as well as on other telecommunications
19 carriers providing services in Vermont.

20 (b) The commissioner's findings and recommendations shall be submitted
21 to the governor and the general assembly on or before December 1, 2011.

* * * Leasing or Licensing of State Land * * *

Sec. 12. 30 V.S.A. § 227e is added to read:

§ 227e. LEASING OR LICENSING OF STATE LAND; PUBLIC NOTICE

(a) Beginning July 1, 2011, state land may not be leased or licensed for the purpose of construction or installation of a telecommunications facility, as defined in 30 V.S.A. § 8063(b), unless authorized by the secretary of administration pursuant to the requirements of this section. For purposes of this section, "state land" means land owned in fee or interests in land owned by the agency of natural resources. No initial lease or license, including any renewal thereof, entered into pursuant to this section shall exceed 20 years.

(b) Prior to entering into or renewing a lease or license, the secretary shall publish notice of the proposed telecommunications facility site in one daily newspaper of general circulation in the region of the proposed site and on the website maintained by the agency of administration.

Sec. 13. 30 V.S.A. § 227b is amended to read:

§ 227b. WIRELESS TELECOMMUNICATIONS

(a)(1) The secretary of administration is designated as the exclusive agent for the state of Vermont to contract for the use of state-owned buildings, structures, and land for wireless, two-way interactive telecommunications facilities. The secretary is granted the power to contract or grant a lease or license of up to 20 years for such buildings, structures, and land for such

1 purposes. The provisions of this section shall apply to all state-owned
2 buildings, structures, and land, including such property owned or managed by
3 the department of state buildings, the agency of transportation, the department
4 of public safety, and the agency of natural resources.

5 (2) The secretary is granted all powers necessary to carry out his or her
6 responsibilities under this section. Notwithstanding any other provision of
7 law, the powers granted to the secretary under this section relating to wireless
8 telecommunications facilities shall supersede the authority granted to any other
9 state official or agency relating to such facilities. The powers granted by this
10 section shall not affect the secretary's duty, and any duty of the facility owner,
11 to seek and obtain any applicable gubernatorial, quasi-judicial, or legislative
12 review, approval or permit required by law, including as necessary permits
13 under 10 V.S.A. chapter 151 (Act 250), local planning and zoning permits, a
14 certificate of public good under 30 V.S.A. § 248a, and legislative approval
15 under 29 V.S.A. § 166 (sale or long-term lease of state lands), 10 V.S.A.
16 § 2606 (exchange or lease of state forests and parks) or 10 V.S.A. § 2606a
17 (state-owned mountaintop use as communications sites).

18 ~~(3) The secretary shall create a work group of state officials and the~~
19 ~~private sector to assist the secretary in developing standard contracting terms~~
20 ~~and procedures, and to advise the secretary of the public interests involved in~~
21 ~~each facility siting proposal. The work group shall include at least two people~~

1 ~~who represent the interests of consumers and who do not represent~~
2 ~~telecommunications businesses or state government.~~ The secretary shall
3 consult with all affected state officials and agencies concerning each proposed
4 use of state properties for wireless telecommunications facilities to determine
5 the compatibility of the particular building, structure or parcel of land to
6 accommodate such facilities, and to determine and give due consideration to
7 the compatibility of the proposed use with the approved long-term
8 management plan for the property under consideration, but the approval of
9 such officials or agencies is not required for the secretary to exercise his or her
10 powers under this section. In the case of lands managed by the agency of
11 natural resources, the secretary shall determine that the use is consistent with
12 any management plan to which the lands are subject.

13 (b) ~~On or before October 1, 1996, the~~ The secretary of administration shall
14 develop a standard contract and a standard contracting procedure for the use of
15 state-owned buildings and land for wireless telecommunications facilities. The
16 contract and contracting procedure shall provide for:

17 (1) criteria and procedures for making a wireless facility development
18 proposal;

19 (2) final consideration of each completed facility development proposal
20 within 60 days of the proposal's submission in the manner prescribed by the
21 secretary;

1 (3) appropriate public benefits as compensation for the use of state
2 properties, including public use of increased telecommunications capacity,
3 direct compensation, or other public benefits;

4 (4) in the event that a wireless telecommunications facility is
5 abandoned, the restoration of the site to a natural state within 12 months
6 following abandonment. For the purpose of this subdivision, "natural state"
7 does not require the removal of equipment and material, other than hazardous
8 material as defined under 10 V.S.A. § 6602(16), buried more than 12 inches
9 below natural grade if the secretary concludes that in the context of a particular
10 site, removal of such equipment and material is not necessary to satisfy the
11 purposes of this subsection;

12 (5) encouragement of competition in wireless telecommunications,
13 including requirements for open access for competing providers;

14 (6) encouragement of the use of advanced technology, and the
15 collocation of facilities whenever feasible, in order that the number of wireless
16 telecommunications facilities can be minimized or reduced;

17 (7) terms and conditions requiring certification by the owners of
18 wireless telecommunications facilities on state-owned buildings, structures, or
19 land that such facilities have been installed, operated, and maintained in
20 accordance with applicable federal and state safety standards; ~~and~~

1 (8) the retaining of a portion of revenues accruing from the lease of
2 state-owned buildings, structures or lands, as determined by the secretary of
3 administration, by departments with management responsibility for such
4 buildings, structures or lands in order to cover operating and maintenance costs
5 associated with two-way, interactive telecommunications facilities.

6 (c) By ~~January 15, 1997~~ January 15, 2012, and by January 15 in the next
7 succeeding three years, the secretary of administration shall report to the chairs
8 of the house commerce committee and the senate finance committee
9 concerning the secretary's activities under this section.

10 (d) In the event of a conflict between the provisions of this section and any
11 other provision of law relating to the use of state-owned buildings, structures
12 and land, including the provisions of section 165 of Title 29, and section 26a of
13 Title 19, the provisions of this section shall control.

14 * * * Local Land Use Bylaws; Exemptions * * *

15 Sec. 14. 24 V.S.A. § 4413 is amended to read:

16 § 4413. LIMITATIONS ON MUNICIPAL BYLAWS

17 * * *

18 (f) This section shall apply in every municipality, notwithstanding any
19 existing bylaw to the contrary.

20 * * *

1 (h)(1) A bylaw under this chapter shall not regulate any of the following:

2 (A) An ancillary improvement that does not exceed a footprint of 200
3 square feet and a height of 10 feet.

4 (B) The following improvements associated with the construction or
5 installation of a communications line:

6 (i) The attachment of a new or replacement cable or wire to an
7 existing structure.

8 (ii) The replacement of an existing pole with a new pole that is not
9 more than ten feet taller than the pole it replaces.

10 (2) For purposes of this subsection:

11 (A) “Ancillary improvement” shall have the same definition as is
12 established in 30 V.S.A. § 248a(b).

13 (B) “Communications line” means a wireline or fiber-optic cable
14 communications facility that transmits and receives signals to and from a local,
15 state, national, or international network used primarily for two-way
16 communications for commercial, industrial, municipal, county, or state
17 purposes.

18 * * * VTA; Board Reorganization * * *

19 Sec. 15. 30 V.S.A. § 8060 is amended to read:

20 § 8060. LEGISLATIVE FINDINGS AND PURPOSE

21 (a) The general assembly finds that:

1 (1) The availability of mobile telecommunications and broadband
2 services is essential for promoting the economic development of the state, the
3 education of its young people and lifelong learning, the delivery of
4 cost-effective health care, the public safety, and the ability of citizens to
5 participate fully in society and civic life.

6 (2) Private entities have brought mobile telecommunications and
7 broadband services to many households, businesses and locations in the state,
8 but significant gaps remain.

9 (3) A new level of creative and innovative strategies (including
10 partnerships and collaborations among and between state entities, nonprofit
11 organizations, municipalities, the federal government, and the private sector) is
12 necessary to extend and complete broadband coverage in the state, and to
13 ensure that Vermont maintains a telecommunications infrastructure that allows
14 residents and businesses to compete fairly in the national and global economy.

15 (4) When such partnerships and collaborations fail to achieve the goal of
16 providing high-quality broadband access and service to all areas and
17 households, or when some areas of the state fall behind significantly in the
18 variety and quality of services readily available in the state, it is necessary for
19 an authority of the state to support and facilitate the construction of
20 infrastructure and access to broadband service through financial and other
21 incentives.

1 (5) Small broadband enterprises now offering broadband service in
2 Vermont have limited access to financial capital necessary for expansion of
3 broadband service to unserved areas of the state. The general assembly
4 recognizes these locally based broadband providers for their contributions to
5 date in providing broadband service to unserved areas despite the limitations
6 on their financial resources.

7 (6) The universal availability of adequate mobile telecommunications
8 and broadband services promotes the general good of the state.

9 (7) Vermonters should be served by broadband infrastructure that, to the
10 extent practical and cost-effective, uses the best commercially available
11 technology and does not involve widespread installation of technology that
12 becomes outmoded within a short period after installation.

13 (b) Therefore, it is the goal of the general assembly to ensure:

14 (1) that all residences and business in all regions of the state have access
15 to affordable broadband services not later than the end of the year ~~2010~~ 2013,
16 and that this goal be achieved in a manner that, to the extent practical and
17 cost-effective, does not negatively affect the future installation of the best
18 commercially available broadband technology or result in widespread
19 installation of technology that becomes outmoded within a short period after
20 installation.

1 (2) the ubiquitous availability of mobile telecommunication services
2 including voice and high-speed data throughout the state by the end of the year
3 ~~2010~~ 2013.

4 (3) the investment in telecommunications infrastructure in the state
5 which will support the best available and economically feasible service
6 capabilities.

7 (4) that telecommunications and broadband infrastructure in all areas of
8 the state is continuously upgraded to reflect the rapid evolution in the
9 capabilities of available mobile telecommunications and broadband
10 technologies, and in the capabilities of mobile telecommunications and
11 broadband services needed by persons, businesses, and institutions in the state.

12 (5) the most efficient use of both public and private resources through
13 state policies by encouraging the development of open access
14 telecommunications infrastructure that can be shared by multiple service
15 providers.

16 Sec. 16. 30 V.S.A. § 8061 is amended to read:

17 § 8061. ESTABLISHMENT OF AUTHORITY; ORGANIZATION

18 (a) The Vermont telecommunications authority is hereby created and
19 established as a body corporate and politic and a public instrumentality of the
20 state. The exercise by the authority of the powers conferred upon it in this
21 chapter constitutes the performance of essential governmental functions.

1 (b) The authority shall have a board of directors of ~~11~~ five members
2 selected as follows:

3 (1) The state treasurer or his or her designee;

4 (2) The secretary of administration or his or her designee; and

5 (3) ~~The manager of the Vermont economic development authority or his~~
6 ~~or her designee;~~

7 ~~(4) Two at-large members~~ One member of the house of representatives
8 appointed by the speaker of the house, ~~who may not be members of the general~~
9 ~~assembly at the time of appointment;~~

10 ~~(5)(4) Two at-large members~~ One member of the senate appointed by
11 the committee on committees of the senate, ~~who may not be members of the~~
12 ~~general assembly at the time of appointment; and~~

13 ~~(6)(5) Two~~ One at-large ~~members~~ member appointed by the governor,
14 who may not be ~~employees~~ an employee or ~~officers~~ officer of the state at the
15 time of appointment; ~~and~~

16 ~~(7) Two at-large members appointed jointly by the governor, the speaker~~
17 ~~of the house, and the president pro tem of the senate, who shall be chair and~~
18 ~~vice chair of the board of directors, and who may not be members of the~~
19 ~~general assembly or employees or officers of the state at the time of~~
20 ~~appointment.~~

1 (c) The authority's powers are vested in the board of directors, and a
2 quorum shall consist of ~~six~~ three members. No action of the authority shall be
3 considered valid unless the action is supported by a majority vote of the
4 members present and voting and then only if at least ~~five~~ three members vote
5 in favor of the action.

6 (d) ~~In making appointments of at large members and the chair, the~~
7 ~~appointing authorities shall give consideration to citizens of the state with~~
8 ~~knowledge of telecommunications technology, telecommunications regulatory~~
9 ~~law, transportation rights of way and infrastructure, finance, and~~
10 ~~environmental permitting. However, the six at large members, the chair, and~~
11 ~~the vice chair may not be persons with a financial interest in or owners or~~
12 ~~employees of an enterprise that provides broadband or cellular service or that~~
13 ~~is seeking in-kind or financial support from the authority. The six at large~~
14 ~~members, the chair and the vice chair shall serve terms of four years beginning~~
15 ~~July 1 of the year of appointment. However, two of the at large members first~~
16 ~~appointed by the speaker, and two of the at large members first appointed by~~
17 ~~the committee on committees shall serve an initial term of two years. Any~~
18 ~~vacancy occurring among the at large members, the chair or the vice chair~~
19 ~~shall be filled by the respective appointing authority and be filled for the~~
20 ~~balance of the unexpired term~~ The legislative and at-large members shall serve
21 terms of two years beginning July 1 of the year of appointment. Vacancies

1 shall be filled by the respective appointing bodies for the balance of the
2 unexpired term. One of the five members shall be appointed chair of the board
3 of directors jointly by the governor, the speaker of the house, and the president
4 pro tempore of the senate. A member may be reappointed.

5 (e) The authority shall hire and employ an executive director who shall
6 serve as the authority's chief administrative officer and shall direct and
7 supervise the authority's administrative affairs and technical activities in
8 accordance with any rules, regulations, and policies set forth by the authority.

9 ~~In addition to any other duties, the executive director shall:~~

10 (1) Attend all meetings of the authority, act as its secretary, and keep
11 minutes of its proceedings;

12 (2) Approve all accounts of the authority, including but not limited to
13 accounts for salaries, per diems, and allowable expenses of any employee or
14 consultant thereof and expenses incidental to the operation of the authority;

15 (3) Make an annual report to the authority documenting the actions of
16 the authority and such other reports as the authority may request;

17 (4) Perform such other duties as may be directed by the authority in the
18 carrying out of the purposes of this chapter.

19 (f) Except for those members otherwise regularly employed by the state,
20 the compensation of the authority's members shall be the same as that
21 provided by ~~subsection~~ 32 V.S.A. § 1010(a) of Title 32. All members of the

1 authority, including those members otherwise regularly employed by the state,
2 shall receive their actual and necessary expenses when away from home or
3 office upon their official duties.

4 Sec. 17. 30 V.S.A. § 8062 is amended to read:

5 § 8062. PURPOSE; POWERS AND DUTIES

6 (a) To achieve the goals under subsection 8060(b) of this title, the authority
7 is directed:

8 (1) from information reasonably available after public notice to and
9 written requests made of mobile telecommunications and broadband service
10 providers, to develop and maintain an inventory of locations at which mobile
11 telecommunications and broadband services are not available within the state,
12 develop and maintain an inventory of infrastructure that is available or
13 reasonably likely to be available to support provision of services to areas
14 unserved, and develop and maintain an inventory of infrastructure necessary
15 for provision of these services to the areas unserved;

16 (2) to identify the types and locations of infrastructure and services
17 needed to accomplish the goals of this chapter;

18 (3) to coordinate the agencies of the state to make public resources
19 available to support the extension of mobile telecommunications and
20 broadband infrastructure and services to all unserved areas;

1 ~~(4) to coordinate and establish public-private partnerships to extend~~
2 ~~availability of mobile telecommunications and broadband services, and to~~
3 ~~promote development of the infrastructure that enables the provision of these~~
4 ~~services;~~

5 ~~(5)~~(4) to support and facilitate local initiatives to extend the availability
6 of mobile telecommunications and broadband services, and to promote
7 development of the infrastructure that enables the provision of these services;

8 ~~(6)~~(5) to provide resources to local, regional, public and private entities
9 in the form of loans, grants, and other incentives funded through bonded
10 capital and other resources;

11 ~~(7) to solicit and consider input from local municipal authorities,~~
12 ~~districts designated by the federal economic development administration,~~
13 ~~regional planning commissions, and metropolitan planning organizations on~~
14 ~~specific projects the authority plans to undertake; and~~

15 ~~(8)~~(6) to inventory and assess the potential to use federal radio
16 frequency licenses held by instrumentalities of the state to enable broadband
17 service in unserved areas of the state; take whatever steps are consistent with
18 the powers granted the authority under this chapter to promote the use of those
19 licensed radio frequencies for that purpose; and recommend to the general
20 assembly any further legislative measures with respect to ownership,

1 management, and utilization of these licenses as would promote the general
2 good of the state; and

3 ~~(9) to the extent not inconsistent with the goals of this chapter, to utilize~~
4 ~~existing buildings and structures, historic or otherwise, as sites for~~
5 ~~visually neutral placement of mobile telecommunications and wireless~~
6 ~~broadband antenna facilities.~~

7 (b) The authority shall have the following powers, which shall be exercised
8 to further the authority's purpose, and shall have all other powers necessary to
9 carry out the duties imposed on the authority by law:

10 ~~(1) to establish partnerships and contracts with providers of~~
11 ~~telecommunications services and related facilities to serve unserved people and~~
12 ~~areas of the state; and to provide financial and other assistance to providers~~
13 ~~who agree in return to provide mobile telecommunications or broadband~~
14 ~~services to unserved people and areas of the state; and to facilitate directly or~~
15 ~~indirectly the efforts of other entities to advance the availability of mobile~~
16 ~~voice and high speed data or broadband services.~~

17 ~~(2)~~ to provide financial assistance in the form of loans, grants,
18 guarantees, other financial instruments, or, in accordance with section 8064 of
19 this title, to issue bonds backed by project revenues, the state, or its political
20 subdivisions, or both, for the purpose of building infrastructure capable of

1 delivering mobile telecommunications and broadband services to all
2 Vermonters;

3 ~~(3)~~(2) to consult, contract, or partner with the Vermont economic
4 development authority and the Vermont municipal bond bank to provide
5 financial assistance for purposes authorized by this chapter;

6 ~~(4)~~(3) to coordinate access to and pursue regional and local revolving
7 loan funding and all state, federal, and private funding that is available for
8 telecommunications infrastructure, including financial assistance that may be
9 available to rural economic area partnership (REAP) zones, as designated by
10 the U.S. Department of Agriculture and to contract with financial assistance
11 providers;

12 ~~(5)~~(4) to receive and accept grants, gifts, loans, or contributions from
13 any source subject to the provisions of 32 V.S.A. § 5.

14 ~~(6) to incorporate one or more nonprofit corporations in Vermont to~~
15 ~~fulfill the goals of this chapter. Such corporations shall be empowered to~~
16 ~~borrow money and to receive and accept gifts, grants, or contributions from~~
17 ~~any source, subject to the provisions of 32 V.S.A. § 5. The board of directors~~
18 ~~of any nonprofit corporation created under this subsection shall be the board of~~
19 ~~directors of the authority. The corporation shall be organized and operate~~
20 ~~under the nonprofit corporation laws of the state of Vermont. The authority~~

1 ~~may contract with the corporation to provide staff and management needs of~~
2 ~~the corporation;~~

3 ~~(7) to aggregate and broker access at reduced prices to services and~~
4 ~~facilities required to provide wireless telecommunications and broadband~~
5 ~~services; and to waive or reduce state fees for access to state owned~~
6 ~~rights of way in exchange for comparable value to the state, unless payment~~
7 ~~for use is otherwise required by federal law;~~

8 ~~(8) to own, acquire, sell, trade, and lease equipment, facilities, and other~~
9 ~~infrastructure that could be accessed and used by multiple service providers,~~
10 ~~the state and local governments, including fiber optic cables, towers, shelters,~~
11 ~~easements, rights of way, and wireless spectrum of frequencies; provided that~~
12 ~~any agreement by the authority to sell infrastructure that is capable of use by~~
13 ~~more than one service provider shall contain conditions that will ensure~~
14 ~~continued shared use or co location at reasonable rates;~~

15 ~~(9) in collaboration with the Vermont municipal bond bank, to act as~~
16 ~~agent and advisor for municipalities that wish to offer municipally backed~~
17 ~~financial assistance, consistent with chapter 53 of Title 24, to develop~~
18 ~~telecommunications infrastructure or services in their communities;~~

19 ~~(10) to apply for and obtain required permits for the construction of~~
20 ~~telecommunications infrastructure;~~

1 ~~(11) in collaboration with the agency of administration, to lead the~~
2 ~~management of marketing of state properties to encourage and expedite~~
3 ~~collocation of infrastructure;~~

4 ~~(12) to consult with agencies and departments on establishing charges or~~
5 ~~payments for use by wireless telecommunications and broadband service~~
6 ~~providers of state property, easements, and rights of way to the extent such~~
7 ~~charges or payments are required by law, and establish the criteria for waiver~~
8 ~~of such charges or payments when providers offer to furnish comparable value~~
9 ~~to the state to meet the public good;~~

10 ~~(13)~~(5) to sue and be sued in its own name and plead and be impleaded;

11 ~~(14)~~(6) to administer its own funds and to invest or deposit funds which
12 are not needed currently to meet the obligations of the authority; and

13 ~~(15)~~(7) to borrow money and give other evidence of indebtedness or
14 obligations and security consistent with the authority's purpose and needs.

15 (c) Nothing in this chapter shall be construed to grant power to the
16 authority to offer the sale of telecommunications services to the public.

17 Sec. 18. 30 V.S.A. § 8063 is amended to read:

18 § 8063. INTERAGENCY COOPERATION AND ASSISTANCE

19 (a) Other departments and agencies of state government shall assist and
20 cooperate with the authority and shall make available to it information and data
21 as needed to assist the authority in carrying out its duties. The secretary of

1 administration shall establish protocols and agreements among the authority
2 and departments and agencies of the state for this purpose. Nothing in this
3 section shall be construed to waive any privilege or protection otherwise
4 afforded to the data and information under exemptions to the public records act
5 or under other laws due solely to the fact that the information or data is shared
6 with the authority pursuant to this section.

7 (b) ~~With the consent of the governor, and under terms and conditions of~~
8 ~~transfer approved by the governor, a state agency shall transfer ownership and~~
9 ~~control to the authority of the agency's interest in any telecommunications~~
10 ~~facility designated by the authority as appropriate to assist the authority in~~
11 ~~meeting its statutory purposes. "Telecommunications facility" includes~~
12 ~~antennae, towers and other support structures, wires and cables, and other~~
13 ~~equipment.~~

14 (e) To the extent that the authority issues loans, it shall consult with the
15 Vermont economic development authority to ensure that the lending activities
16 and programs of each are coordinated and are not in competition. The
17 authority shall, through contract or agreement, engage the assistance of the
18 Vermont economic development authority in planning and administering
19 lending activities and in evaluating credit worthiness of the borrower for
20 purposes of this chapter.

1 ~~(d)~~(c) The authority shall also strive to identify, consult with, and
2 coordinate lending programs with the administrators of local and regional
3 revolving loan funds in order to leverage the lending capacity of the authority
4 and the regional and local funds, and to ensure that the lending activities of the
5 authority and the revolving loan funds are not in competition.

6 ~~(e) No instrumentality of the state shall sell, lease, or otherwise divest itself~~
7 ~~of ownership or control of radio frequency spectrum without prior notice to~~
8 ~~and approval of the authority.~~

9 Sec. 19. 30 V.S.A. § 8071 is amended to read:

10 ~~§ 8071. ANNUAL REPORTS; AUDIT~~

11 ~~(a) On or before the last day of January of each calendar year, the authority~~
12 ~~shall submit a report of its activities for the preceding fiscal year to the~~
13 ~~governor and to the general assembly. Each report shall set forth a complete~~
14 ~~operating and financial statement covering its operations during the year. The~~
15 ~~authority shall cause an audit of its books and accounts to be made at least~~
16 ~~once in each year by certified public accountants; the cost shall be considered~~
17 ~~an expense of the authority and a copy shall be filed with the state treasurer.~~

18 ~~(b) The auditor of accounts of the state and his or her duly authorized~~
19 ~~representatives may at any time examine the accounts and books of the~~
20 ~~authority including its receipts, disbursements, contracts, sinking funds,~~
21 ~~investments, and any other matters relating to its financial statements.~~

1 Sec. 20. 30 V.S.A. § 8072 is amended to read:

2 ~~§ 8072. ANNUAL OVERSIGHT REPORTS~~

3 ~~(a) In addition to the annual and audit reports required by section 8071 of~~
4 ~~this title, the authority shall provide annual oversight reports to the general~~
5 ~~assembly on or before January 1 each year. Each annual oversight report shall~~
6 ~~contain:~~

7 ~~(1) An inventory of the locations within the state in which mobile~~
8 ~~telecommunications and broadband service are currently available.~~

9 ~~(2) A report of the progress made to date by the authority in developing~~
10 ~~its capabilities to undertake or sponsor projects that expand the availability of~~
11 ~~mobile telecommunications and broadband service.~~

12 ~~(3) A projected outlook on progress by the authority, including:~~

13 ~~(A) An assessment of the authority's capabilities to perform the~~
14 ~~powers granted the authority, and to contribute to the improvement of~~
15 ~~broadband service availability and mobile telecommunications service~~
16 ~~coverage in the state; and~~

17 ~~(B) An assessment of the foreseeable extent of broadband service~~
18 ~~availability and mobile telecommunications service coverage in the state.~~

19 ~~(4) A summary of the status and results of any competitive solicitation~~
20 ~~processes undertaken or planned for the purpose of increasing broadband~~

1 ~~service availability and mobile telecommunications coverage in the state,~~

2 ~~including:~~

3 ~~(A) an assessment of the level of interest among potential service~~
4 ~~providers;~~

5 ~~(B) a summary of the numbers and types of entities participating;~~

6 ~~(C) a description of measures taken or under consideration by the~~
7 ~~authority to enhance the level of interest among potential bidders; and~~

8 ~~(D) terms of any arrangements entered between the authority and~~
9 ~~service providers.~~

10 ~~(5) A description of all authority activities to develop or facilitate~~
11 ~~development of telecommunications infrastructure that furthers the objective of~~
12 ~~this chapter.~~

13 ~~(6) Financial statements of the authority, a summary of expenditures by~~
14 ~~the authority since inception, and a forecast of expenditures.~~

15 ~~(7) A summary of any financial commitments made by the authority.~~

16 ~~(8) A list and summary of all contracts and agreements entered into by~~
17 ~~the authority, and a list and summary of any rail right of way agreements~~
18 ~~entered into by the authority including any waivers of charges for comparable~~
19 ~~value to the state granted under 19 V.S.A. § 26a.~~

20 ~~(9) A summary of any and all instances in which service providers that~~
21 ~~have entered into contracts or binding commitments with the authority have~~

1 ~~materially defaulted, been unable to fulfill their commitments, or have~~
2 ~~requested or been granted relief from contractual or binding commitments.~~

3 ~~(10) A current business plan for the authority, including an explanation~~
4 ~~of significant changes subsequent to the most recent previous report.~~

5 ~~(11) A list and description of all actions taken by the authority to~~
6 ~~transfer control of state-owned telecommunications facilities to the authority.~~

7 ~~(12) A description of the extent of the authority's assistance to and~~
8 ~~participation in proceedings before local zoning and development review~~
9 ~~boards, district environmental commissions, or project applicants seeking to~~
10 ~~construct or alter communications facilities located in the state.~~

11 ~~(13) Recommendations, if any, for further legislative action to promote~~
12 ~~the objectives of this chapter.~~

13 ~~(b) The authority shall deliver its annual report of January 1, 2011 by~~
14 ~~electronic mail to the home e-mail address of all members of the general~~
15 ~~assembly in office on that date and members elect on that date with printed~~
16 ~~copies provided by regular mail to any member or member elect lacking~~
17 ~~electronic mail services.~~

18 Sec. 21. 30 V.S.A. § 8078 is amended to read:

19 ~~§ 8078. SELECTION OF PROPOSALS TO PROVIDE COMPETITIVE~~
20 ~~PROCESS~~

21 ~~(a) Broadband service; competitive process.~~

1 ~~(1) For the purposes of this chapter, a premise is “served” with~~
2 ~~broadband service if it has access to mass market broadband services meeting~~
3 ~~the minimum technical characteristics identified pursuant to section 8077 of~~
4 ~~this title. For the purposes of this chapter, with respect to broadband service,~~
5 ~~“unserved area” shall mean a contiguous geographic area of the state, without~~
6 ~~regard to municipal boundaries or size of geographic area, which contains~~
7 ~~premises that can obtain basic telephone service but are not served.~~

8 ~~(2) By not later than December 1, 2007, the authority shall identify all~~
9 ~~served and unserved areas within the state. The authority may rely on readily~~
10 ~~and publicly available information to estimate the extent of these areas.~~

11 ~~(3) The authority shall seek to enable the development of networks and~~
12 ~~telecommunications infrastructure necessary to support provision of mass-~~
13 ~~market broadband services, in all unserved areas of the state, which meet or~~
14 ~~exceed the minimum technical characteristics identified pursuant to section~~
15 ~~8077 of this title.~~

16 ~~(4) The authority shall establish and utilize an open and competitive~~
17 ~~process to solicit proposals to eliminate unserved areas by the end of the year~~
18 ~~2010 through the development of telecommunications facilities or through~~
19 ~~binding commitments from service providers to offer broadband service to all~~
20 ~~unserved areas in a given region. For the purposes of this process, the~~
21 ~~authority may divide the state into one or more regions. The authority shall~~

1 ~~undertake substantial efforts to complete the process of competitively soliciting~~
2 ~~proposals by January 31, 2008. The authority shall solicit and accept~~
3 ~~broadband service expansion commitments in a manner that allows small~~
4 ~~locally based broadband providers a reasonable opportunity to contribute~~
5 ~~toward realization of the policy objectives of this chapter. In evaluating~~
6 ~~proposals, the authority shall consider:~~

7 ~~(A) the proposed data transfer rates and other data transmission~~
8 ~~characteristics of services which would be available to consumers;~~

9 ~~(B) the price to consumers of services;~~

10 ~~(C) the proposed cost to consumers of any new construction,~~
11 ~~equipment installation service, or facility required to obtain service;~~

12 ~~(D) whether the proposal would utilize the best available technology~~
13 ~~which is economically feasible; and~~

14 ~~(E) the ability to achieve the authority's objectives in the most cost-~~
15 ~~effective manner.~~

16 ~~(5) The authority may support or undertake projects that enable~~
17 ~~provision of broadband service in geographic areas currently served; provided~~
18 ~~that:~~

19 ~~(A) such projects are the most cost effective method for providing~~
20 ~~broadband services in nearby unserved areas; and~~

1 ~~(B) before undertaking such projects, the authority makes reasonable~~
2 ~~effort to distinguish served areas and populations from unserved areas and~~
3 ~~populations within the geographic area that the project would serve, including~~
4 ~~recognition and consideration of known or probable service extensions or~~
5 ~~upgrades.~~

6 ~~(b) Commercial mobile radio (cellular) service, competitive process.~~

7 ~~(1) The authority shall seek to eliminate areas without access to~~
8 ~~commercial mobile radio service licensed by the Federal Communications~~
9 ~~Commission by 2010 through the construction of facilities and binding~~
10 ~~commitments from commercial mobile radio service providers.~~

11 ~~(2) The authority shall seek to expand access to all services that utilize~~
12 ~~the technical standards which are commonly in use for providing voice and~~
13 ~~data services through commercial mobile radio service.~~

14 ~~(3) The authority shall establish and utilize an open and competitive~~
15 ~~process to solicit proposals to eliminate areas without coverage from a provider~~
16 ~~of commercial mobile radio services within the state of Vermont by 2010~~
17 ~~through the development of telecommunications facilities and through binding~~
18 ~~commitments from service providers to expand service, including all unserved~~
19 ~~areas in a given region. For the purposes of this process, the authority may~~
20 ~~divide the state into one or more regions. The authority shall undertake~~
21 ~~substantial efforts to complete the process of competitively soliciting proposals~~

1 ~~by January 31, 2008. In evaluating proposals, the authority shall consider the~~
2 ~~extent to which a proposal meets coverage objectives while limiting~~
3 ~~environmental impact and providing opportunities for future development of~~
4 ~~wireless communications services.~~

5 Sec. 22. 30 V.S.A. § 8079 is amended to read:

6 ~~§ 8079. BROADBAND INFRASTRUCTURE; INVESTMENT~~

7 ~~(a) To achieve the goals established in subsection 8060(b) of this title, the~~
8 ~~authority is authorized to invest in broadband infrastructure or contract with~~
9 ~~retail providers for the purpose of making services available to at least 10,000~~
10 ~~households or businesses in target communities where such services are~~
11 ~~currently unavailable or to upgrade services in underserved business districts,~~
12 ~~as determined by the authority. For the purposes of this section, target~~
13 ~~communities shall not be considered unserved if a broadband provider has a~~
14 ~~legally binding commitment to provide service to those locations or a provider~~
15 ~~has received a broadband stimulus grant to provide service to those locations.~~

16 ~~(b) To accomplish the purpose of this section, the authority shall publish a~~
17 ~~request for proposals for all of the following options for the purpose of~~
18 ~~providing broadband coverage to 100 percent of Vermont households and~~
19 ~~businesses within target communities: (1) the construction of physical~~
20 ~~broadband infrastructure, to be owned by the authority; (2) initiatives by~~
21 ~~public-private partnerships or retail vendors; or (3) programs that provide~~

1 ~~financial incentives to consumers, in the form of rebates for up to 18 months,~~
2 ~~for example, to ensure that providers have a sufficient number of subscribers.~~

3 ~~The authority shall select proposals for target communities that best achieve~~
4 ~~the objective stated in subsection (a) of this section, consistent with the criteria~~
5 ~~listed in subsections (c) and (d) of this section.~~

6 ~~(c) Criteria. Any request for proposals developed under this section shall~~
7 ~~include the following requirements:~~

8 ~~(1) The technology and infrastructure used by a telecommunications~~
9 ~~provider participating in a project pursuant to this section shall support the~~
10 ~~delivery of services with an upload speed of at least one megabit per second,~~
11 ~~and combined download and upload speeds equal to or greater than five~~
12 ~~megabits per second. However, the Vermont telecommunications authority~~
13 ~~may waive the one megabit upload speed requirement if it determines this is in~~
14 ~~the best interest of the consumers.~~

15 ~~(2) Infrastructure owned and leased by the authority shall be available~~
16 ~~for use by as many telecommunication providers as the technology will permit~~
17 ~~to avoid the state from establishing a monopoly service territory for one~~
18 ~~provider.~~

19 ~~(d) The authority shall review proposals and award contracts based upon~~
20 ~~the price, quality of services offered, positive experience with infrastructure~~
21 ~~maintenance, retail service delivery, and other factors determined to be in the~~

1 ~~public interest by the authority. In selecting target communities, the authority~~
2 ~~shall consider to the extent possible:~~

3 ~~(1) the proportion of homes and businesses in those communities~~
4 ~~without access to broadband service and without access to broadband service~~
5 ~~meeting the minimum technical service characteristic objectives established~~
6 ~~under section 8077 of this title;~~

7 ~~(2) the level of adoption of broadband service by residential and~~
8 ~~business users within the community;~~

9 ~~(3) opportunities to leverage or support other sources of federal, state, or~~
10 ~~local funding for the expansion or adoption of broadband service;~~

11 ~~(4) the number of potential new subscribers in each community and the~~
12 ~~total level of funding available for the program;~~

13 ~~(5) the geographic location of selected communities and whether new~~
14 ~~target communities would further the goal of bringing broadband service to all~~
15 ~~regions of the state; and~~

16 ~~(6) pending grant and loan applications for the expansion of broadband~~
17 ~~service filed with the U.S. Department of Commerce and with the broadband~~
18 ~~initiatives program under the Rural Utilities Service of the U.S. Department of~~
19 ~~Agriculture, which will be awarded no later than October 1, 2010.~~

20 ~~(e) To the extent any funds appropriated by the general assembly are~~
21 ~~rendered unnecessary for the purpose of reaching unserved Vermonters due to~~

1 ~~a successful application to the broadband initiatives program under the Rural~~
2 ~~Utilities Service of the U.S. Department of Agriculture, such funds shall be~~
3 ~~placed in reserve by the authority to be used first to achieve 100 percent~~
4 ~~coverage pursuant to this chapter and, once that is achieved, to then deliver~~
5 ~~fiber quality service to Vermont's public facilities, regional business hubs, and~~
6 ~~anchor businesses and institutions.~~

7 ~~(f) Beginning July 1, 2010, the authority may invest up to \$500,000.00 for~~
8 ~~upgrades in broadband services in underserved business districts, as defined by~~
9 ~~the authority.~~

10 * * * Smart Grid Project Manager * * *

11 Sec. 23. SMART GRID PROJECT MANAGER

12 The commissioner of public service is authorized to accept federal grants to
13 fund a smart grid project manager to oversee the deployment of smart grid in
14 Vermont. Such funds shall not be supplemented by a rate-based charge to
15 consumers. The smart grid project manager shall be a temporary,
16 limited-service, exempt position, the term of which shall expire upon the
17 expenditure of all grants received under this section.

18 * * * ARRA Satellite Grant Program; Public Outreach * * *

19 Sec. 24. HUGHESNET RECOVERY ACT PROGRAM

20 (a) Pursuant to the broadband initiatives program of the American
21 Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, Hughes Network

1 Systems, LLC (Hughes) was selected by the Rural Utilities Service (RUS) of
2 the United States Department of Agriculture as a nationwide provider under
3 RUS's satellite grant program and was awarded a \$58,700,000.00 grant in
4 2010. The grant allows Hughes to provide high speed Internet service by
5 satellite to over 105,000 rural residences by eliminating the cost of hardware
6 and installation and by reducing the price of monthly service plans.

7 (b) The satellite Internet service provided by Hughes may be the best
8 opportunity to bring broadband service to areas that otherwise might not be
9 served.

10 (c) Notwithstanding the minimum technical service requirements
11 established by the department of public service under 30 V.S.A. § 8077, the
12 commissioner of public service and the director of the telecommunications
13 division shall make known the availability of the HughesNet recovery act
14 program and reference Hughes in relevant publications listing broadband
15 providers in Vermont.

16 * * * VTA; Moratorium on Expenditures * * *

17 Sec. 25. VTA MORATORIUM ON EXPENDITURES

18 (a) Notwithstanding any other provision of law to the contrary, upon the
19 effective date of this act, the VTA shall:

20 (1) Seek permission from the National Telecommunications and
21 Information Administration within the United States Department of Commerce

1 to transfer any of its rights and responsibilities under the Vermont Fiber Link
2 project to its partner, Sovernet Fiber Corporation; and, if such permission is
3 granted, to immediately transfer such rights and responsibilities as permitted.

4 (2) Cease to expend state funds or enter into contracts for the
5 construction or installation of telecommunications facilities without prior
6 approval of the joint fiscal committee after consultation with the chairs of the
7 senate committee on economic development, housing and general affairs and
8 the house committee on commerce and community development.

9 (b) Subdivision (a)(2) of this section shall not interfere with any
10 contractual rights or responsibilities entered into by the VTA on or before the
11 effective date of this act.

12 Sec. 26. EFFECTIVE DATE

13 This act shall take effect on passage.