

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 297 entitled
3 “An act relating to duties and functions of the Department of Public Service”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

7 * * * Legislative Purpose; Intent * * *

8 **Sec. 1. LEGISLATIVE PURPOSE; FINDINGS**

9 **It is the intent of the General Assembly to maintain a robust and**
10 **modern telecommunications network in Vermont by making strategic**
11 **investments in improved technology for all Vermonters. To achieve that**
12 **goal, it is the purpose of this act to upgrade the State’s**
13 **telecommunications objectives and reorganize government functions in a**
14 **manner that results in more coordinated and efficient State programs and**
15 **policies, and, ultimately, produces operational savings which then can be**
16 **invested in the further deployment of broadband and mobile**
17 **telecommunications services for the benefit of all Vermonters. In**
18 **addition, it is the intent of the General Assembly to update and provide**
19 **for a more equitable application of the universal service fund (USF)**
20 **surcharge. Together, these operational savings and additional USF**
21 **monies will raise at least \$1.45 million annually, as follow:**

1 **(1) \$650,000.00 from an increase in the USF charge to a flat two**
2 **percent;**

3 **(2) \$500,00.00 from application of the USF charge to prepaid**
4 **wireless telecommunications service providers; and**

5 **(3) \$300,000 in operational savings from the transfer and**
6 **consolidation of State telecommunications functions.**

7 * * * USF; Connectivity Fund; Prepaid Wireless; Rate of Charge * * *

8 Sec. 2. 30 V.S.A. § 7511 is amended to read:

9 § 7511. DISTRIBUTION GENERALLY

10 (a) As directed by the ~~public service board~~, Public Service Board, one-half
11 of the total funds collected by the fiscal agent, and interest accruing thereon,
12 shall be distributed as follows:

13 (1) ~~To~~ to pay costs payable to the fiscal agent under its contract with the
14 ~~public service board~~. Board;

15 (2) ~~To~~ to support the Vermont telecommunications relay service in the
16 manner provided by section 7512 of this title;

17 (3) ~~To~~ to support the Vermont ~~lifeline~~ Lifeline program in the manner
18 provided by section 7513 of this title;

19 (4) ~~To~~ to support ~~enhanced-911~~ Enhanced-911 services in the manner
20 provided by section 7514 of this title; and

1 (5) ~~To reduce the cost to customers of basic telecommunications service~~
2 ~~in high-cost areas, in the manner provided by section 7515 of this title~~ **to**
3 **support the Connectivity Fund established in section 7516 of this chapter.**

4 (b) If insufficient funds exist to support all of the purposes contained in
5 subsection (a) of this section, the ~~public service board~~ **Board** shall conduct an
6 expedited proceeding to allocate the available funds, giving priority in the
7 order listed in subsection (a).

8 Sec. 3. 30 V.S.A. § 7516 is added to read:

9 § 7516. CONNECTIVITY FUND

10 (a) There is created a Connectivity Fund for the purpose of providing
11 access to Internet service that is capable of speeds of at least 4 Mbps download
12 and 1 Mbps upload to every E-911 business and residential location in
13 Vermont, beginning with locations not served as of December 31, 2013
14 according to the minimum technical service characteristic objectives applicable
15 at that time. Any new services funded in whole or in part by monies in this
16 Fund shall be capable of being continuously upgraded to reflect the best
17 available, most economically feasible service capabilities.

18 **(b) The fiscal agent shall determine annually, by September 1, the**
19 **amount of funds available to the Connectivity Fund. The Department of**
20 **Public Service shall publish annually a list of census blocks eligible for**
21 **funding based on the Department’s most recent broadband mapping data.**

1 **The Department annually shall solicit proposals from service providers,**
2 **the Vermont Telecommunications Authority, and the Division for**
3 **Connectivity to deploy broadband to eligible census blocks. The**
4 **Department shall seek to give priority to proposals that reflect the lowest**
5 **cost of providing services to unserved locations; however, the Department**
6 **also shall consider:**

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

9 **(2) the price to consumers of services;**

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

12 **(4) whether the proposal would use the best available technology**
13 **which is economically feasible;**

14 **(5) the ability to achieve the Department’s objectives in the most**
15 **cost-effective manner;**

16 **(6) the availability of service of comparable quality and speed; and**

17 **(7) the objectives of the State’s Telecommunications Plan.**

18 Sec. 4. 30 V.S.A. § 7521 is amended to read:

19 § 7521. CHARGE IMPOSED; WHOLESale EXEMPTION

20 (a) A universal service charge is imposed on all retail telecommunications
21 service provided to a Vermont address. Where the location of a service and the

1 location receiving the bill differ, the location of the service shall be used to
2 determine whether the charge applies. The charge is imposed on the person
3 purchasing the service, but shall be collected by the telecommunications
4 provider. Each telecommunications service provider shall include in its tariffs
5 filed at the ~~public service board~~ Public Service Board a description of its
6 billing procedures for the universal service fund charge.

7 (b) The universal service charge shall not apply to wholesale transactions
8 between telecommunications service providers where the service is a
9 component part of a service provided to an end user. This exemption includes,
10 ~~but is not limited to,~~ network access charges and interconnection charges paid
11 to a local exchange carrier.

12 (c) In the case of mobile telecommunications service, the universal service
13 charge is imposed when the customer's place of primary use is in Vermont.
14 The terms "customer," "place of primary use," and "mobile
15 telecommunications service" have the meanings given in 4 U.S.C. § 124. All
16 provisions of 32 V.S.A. § 9782 shall apply to the imposition of the universal
17 service charge under this section.

18 (d)(1) Notwithstanding any other provision of law to the contrary, in
19 the case of prepaid wireless telecommunications services, the universal service
20 charge shall be imposed on the provider based on its gross operating revenue.

21 (2) For purposes of this subsection:

1 (A) “Gross operating revenue” means the gross operating revenue
2 received by the provider from the sale of prepaid wireless telecommunications
3 service in Vermont, as reported to the Department of Public Service under
4 section 22 of this title.

5 (B) “Prepaid wireless telecommunications service” means a
6 telecommunications service as defined in section 203(5) of this title that a
7 consumer pays for in advance and that is sold in predetermined units or dollars
8 that decline with use.

9 (3) The Public Service Board shall establish a formula to ensure the
10 universal service charge imposed on prepaid wireless telecommunications
11 service providers reflects two percent of retail prepaid wireless
12 telecommunications service in Vermont beginning September 1, 2014.

13 Sec. 5. 30 V.S.A. § 7523 is amended to read:

14 § 7523. ~~RATE ADJUSTED ANNUALLY~~ OF CHARGE

15 ~~(a) Annually, after considering the probable expenditures for programs~~
16 ~~funded pursuant to this chapter, the probable service revenues of the industry~~
17 ~~and seeking recommendations from the department, the public service board~~
18 ~~shall establish a rate of charge to apply during the 12 months beginning on the~~
19 ~~following September 1. However, the rate so established shall not at any time~~
20 ~~exceed two percent of retail telecommunications service. The board’s decision~~
21 ~~shall be entered and announced each year before July 15. However, if the~~

1 ~~general assembly does not enact an authorization amount for E-911 before July~~
2 ~~15, the board may defer decision until 30 days after the E-911 authorization is~~
3 ~~established, and the existing charge rate shall remain in effect until the board~~
4 ~~establishes a new rate~~ **Beginning July 1, 2014, the annual rate of charge**
5 **shall be two percent of retail telecommunications service.**

6 (b) Universal service charges imposed and collected by the fiscal agent
7 under this subchapter shall not be transferred to any other fund or used to
8 support the cost of any activity other than in the manner authorized by section
9 7511 of this title.

10 **Sec. 6. 30 V.S.A. § 7524 is amended to read:**

11 § 7524. PAYMENT TO FISCAL AGENT

12 (a) Telecommunications service providers shall pay to the fiscal agent all
13 universal service charge receipts collected from customers. A report in a form
14 approved by ~~the public service board~~ Public Service Board shall be included
15 with each payment.

16 (b) Payments shall be made monthly, by the 15th day of the month, and
17 shall be based upon amounts collected in the preceding month. If the amount
18 is small, the ~~board~~ Board may allow payment to be made less frequently, and
19 may permit payment on an accrual basis.

1 (c) Telecommunications service providers shall maintain records adequate
2 to demonstrate compliance with the requirements of this chapter. The ~~board~~
3 Board or the fiscal agent may examine those records in a reasonable manner.

4 (d) When a payment is due under this section by a telecommunications
5 service provider who has provided customer credits under the ~~lifeline~~ Lifeline
6 program, the amount due may be reduced by the amount of credit granted.

7 **(e) The fiscal agent shall examine the records of telecommunications**
8 **service providers to determine whether their receipts reflect application of**
9 **the universal service charge on all assessable telecommunications services**
10 **under this chapter, including the federal subscriber line charge, directory**
11 **assistance, enhanced services unless they are billed as separate line items,**
12 **and toll-related services.**

13 * * * State Telecommunications Plan; Division for Connectivity; VTA * * *

14 **Sec. 7. 3 V.S.A. § 2225 is added to read:**

15 **§ 2225. STATE TELECOMMUNICATION; POLICY AND PLANNING**

16 **(a) The General Assembly finds that advances in telecommunications**
17 **technology and changes in federal regulatory policy are rapidly reshaping**
18 **telecommunications services, thereby promising the people and businesses**
19 **of the State improved communication and access to information, while**
20 **creating new challenges for maintaining a robust, modern**
21 **telecommunications network in Vermont.**

1 **(b) Therefore, to direct the benefits of improved telecommunications**
2 **technology to all Vermonters, it is the purpose of this section and section**
3 **2226 of this title to:**

4 **(1) strengthen the State’s role in telecommunications planning;**

5 **(2) Support the universal availability of appropriate infrastructure**
6 **and affordable services for transmitting voice and high-speed data;**

7 **(3) support the availability of modern mobile wireless**
8 **telecommunications services along the State’s travel corridors and in the**
9 **State’s communities;**

10 **(4) provide for high-quality, reliable telecommunications services**
11 **for Vermont businesses and residents;**

12 **(5) provide the benefits of future advances in telecommunications**
13 **technologies to Vermont residents and businesses;**

14 **(6) support competitive choice for consumers among**
15 **telecommunications service providers and promote open access among**
16 **competitive service providers on nondiscriminatory terms to networks**
17 **over which broadband and telecommunications services are delivered;**

18 **(7) support the application of telecommunications technology to**
19 **maintain and improve governmental and public services, public safety,**
20 **and the economic development of the State;**

1 **(8) support, to the extent practical and cost-effective, deployment of**
2 **broadband infrastructure that:**

3 **(A) uses the best commercially available technology, and**

4 **(B) does not negatively affect the ability of Vermont to take**
5 **advantage of future improvements in broadband technology or result in**
6 **widespread installation of technology that becomes outmoded within a**
7 **short period after installation;**

8 **(9) in the deployment of broadband infrastructure, encourage the**
9 **use of existing facilities, such as existing utility poles and corridors and**
10 **other structures, in preference to the construction of new facilities or the**
11 **replacement of existing structures with taller structures; and**

12 **(10) support measures designed to ensure that by the end of the year**
13 **2024 every E-911 business and residential location in Vermont has**
14 **infrastructure capable of delivering Internet access with service that has a**
15 **minimum speed of 100 Mbps and is as symmetrical as is reasonably**
16 **possible..**

17 **Sec. 8. 3 V.S.A. § 2226 is added to read:**

18 **§ 2226. TELECOMMUNICATIONS PLAN**

19 **(a) The Agency of Administration shall constitute the responsible**
20 **planning agency of the State for the purpose of obtaining for all**
21 **consumers in the State stable and predictable rates and a technologically**

1 advanced telecommunications network serving all service areas in the
2 State. The Secretary shall be responsible for the provision of plans for
3 meeting emerging trends related to telecommunications technology,
4 markets, financing, and competition. The Secretary, using the resources
5 of the Department of Public Service, shall prepare a Telecommunications
6 Plan for the State. The Department of Public Service, the Department of
7 Innovation and Information, and the Agency of Commerce and
8 Community Development shall assist the Secretary in preparing the Plan.
9 The Plan shall be for a seven-year period and shall serve as a basis for
10 State telecommunications policy. Prior to preparing the Plan, the
11 Secretary shall prepare:

12 (1) an overview, looking seven years ahead, of future requirements
13 for telecommunications services, considering services needed for economic
14 development, technological advances, and other trends and factors which,
15 as determined by the Secretary, will significantly affect State
16 telecommunications policy and programs;

17 (2) a survey of Vermont residents and businesses, conducted in
18 cooperation with the Agency of Commerce and Community Development
19 and the Department of Public Service, to determine what
20 telecommunications services are needed now and in the succeeding seven
21 years;

1 **(3) an assessment of the current state of telecommunications**
2 **infrastructure;**

3 **(4) an assessment, conducted in cooperation with the Department of**
4 **Innovation and Information and the Department of Public Service, of the**
5 **current State telecommunications system and evaluation of alternative**
6 **proposals for upgrading the system to provide the best available and**
7 **affordable technology for use by government; and**

8 **(5) an assessment of the state of telecommunications networks and**
9 **services in Vermont relative to other states, including price comparisons**
10 **for key services and comparisons of the state of technology deployment.**

11 **(b) The plan shall establish minimum technical service characteristics**
12 **for which ought to be available as part of broadband services commonly**
13 **sold to residential and small business users throughout the State. The**
14 **State shall only promote the expansion of broadband services that offer**
15 **actual speeds of at least 4 Mbps downstream and 1 Mbps upstream, or the**
16 **minimum broadband speeds established by the Federal Communications**
17 **Commission for support from the Connect America Fund, whichever is**
18 **higher. The Secretary shall review and update the minimum**
19 **characteristics not less than every three years beginning in 2017. In the**
20 **event such review is conducted separately from an update of the**

1 **Telecommunications Plan, the Secretary shall issue revised minimum**
2 **technical service characteristics as an amendment to the Plan.**

3 **(c) In developing the Plan, the Secretary shall conform with the**
4 **policies and goals of this section and section 2225 of this title.**

5 **(d) In establishing plans, public hearings shall be held and the**
6 **Secretary shall consult with members of the public, representatives of**
7 **telecommunications utilities, other providers, and other interested State**
8 **agencies, particularly the Department of Public Service, the Agency of**
9 **Commerce and Community Development, and the Department of**
10 **Innovation and Information, whose views shall be considered in**
11 **preparation of the Plan. To the extent necessary, the Secretary shall**
12 **include in the Plan surveys to determine existing, needed, and desirable**
13 **plant improvements and extensions, access, and coordination between**
14 **telecommunications providers, methods of operations, and any change**
15 **that will produce better service or reduce costs. To this end, the Secretary**
16 **may require the submission of data by each company subject to**
17 **supervision by the Public Service Board.**

18 **(e) Before adopting a Plan, the Secretary shall conduct public hearings**
19 **on a final draft and shall consider the testimony presented at such**
20 **hearings in preparing the final Plan. At least one hearing shall be held**
21 **jointly with Committees of the General Assembly designated by the**

1 **General Assembly for this purpose. The plan shall be adopted by**
2 **September 1, 2021.**

3 **(f) The Division, from time to time, but in no event less than every**
4 **three years, institute proceedings to review the Plan and make revisions,**
5 **where necessary. The three-year major review shall be made according to**
6 **the procedures established in this section for initial adoption of the Plan.**
7 **For good cause or upon request by a joint resolution passed by the**
8 **General Assembly, an interim review and revision of any section of the**
9 **Plan may be made after conducting public hearings on the interim**
10 **revision. At least one hearing shall be held jointly with Committees of the**
11 **General Assembly designated by the General Assembly for this purpose.**

12 Sec. 9. 3 V.S.A. § 2227 is added to read:

13 **§ 2227. DIVISION FOR CONNECTIVITY**

14 **(a) Creation. The Division for Connectivity is created within the Agency**
15 **of Administration as the successor in interest to and the continuation of the**
16 **Vermont Telecommunications Authority. A Director for Connectivity shall be**
17 **appointed by the Secretary of Administration. The Division shall receive**
18 **administrative support from the Agency.**

19 **(b) Purposes. The purposes of the Division are to promote:**

20 **(1) access to affordable broadband service to all residences and**
21 **businesses in all regions of the State, to be achieved in a manner that, ~~to the~~**

1 ~~extent practical and cost effective, does not negatively affect the future~~
2 ~~installation of the best commercially available broadband technology or~~
3 ~~result in widespread installation of technology that becomes outmoded~~
4 ~~within a short period after installation is consistent with the State~~

5 Telecommunications Plan:

6 (2) universal availability of mobile telecommunication services,
7 including voice and high-speed data along roadways, and near universal
8 availability statewide;

9 (3) investment in telecommunications infrastructure in the State that
10 creates or completes the network for service providers to create last-mile
11 connection to the home or business and supports the best available and
12 economically feasible service capabilities;

13 (4) the continuous upgrading of telecommunications and broadband
14 infrastructure in all areas of the State is to reflect the rapid evolution in the
15 capabilities of available mobile telecommunications and broadband
16 technologies, and in the capabilities of mobile telecommunications and
17 broadband services needed by persons, businesses, and institutions in the State;
18 and

19 (5) the most efficient use of both public and private resources through
20 State policies by encouraging the development of open access

1 telecommunications infrastructure that can be shared by multiple service
2 providers.

3 ~~**(6) measures designed to ensure every E-911 business and**~~
4 ~~**residential location in Vermont has Internet access at speeds of at least**~~
5 ~~**100 Mbps by the end of the year 2024.**~~

6 (c) Duties. To achieve its purposes, the Division shall:

7 (1) provide resources to local, regional, public, and private entities in the
8 form of grants, technical assistance, coordination, and other incentives;

9 (2) prioritize the use of existing buildings and structures, historic or
10 otherwise, as sites for visually-neutral placement of mobile
11 telecommunications and wireless broadband antenna facilities; and

12 (3) inventory and assess the potential to use federal radio frequency
13 licenses held by instrumentalities of the State to enable broadband service in
14 unserved areas of the State; take steps to promote the use of those licensed
15 radio frequencies for that purpose; and recommend to the General Assembly
16 any further legislative measures with respect to ownership, management, and
17 use of these licenses as would promote the general good of the State.

18 (4) coordinate telecommunications initiatives among Executive Branch
19 agencies, departments, and offices.

20 (5) from information reasonably available after public notice to and
21 written requests made of mobile telecommunications and broadband service

1 providers, develop and maintain an inventory of locations at which mobile
2 telecommunications and broadband services are not available within the State,
3 develop and maintain an inventory of infrastructure that is available or
4 reasonably likely to be available to support the provision of services to
5 unserved areas, and develop and maintain an inventory of infrastructure
6 necessary for the provision of these services to the unserved areas;

7 (6) identify the types and locations of infrastructure and services needed
8 to carry out the purposes stated in subsection (b) of this section;

9 (7) formulate an action plan **that conforms with the State**
10 **Telecommunications Plan** and carries out the purposes stated in subsection
11 (b) of this section;

12 (8) coordinate the agencies of the State to make public resources
13 available to support the extension of mobile telecommunications and
14 broadband infrastructure and services to all unserved areas;

15 (9) support and facilitate initiatives to extend the availability of mobile
16 telecommunications and broadband services, and promote development of the
17 infrastructure that enables the provision of these services; and

18 (10) through the Department of Innovation and Information, aggregate
19 and broker access at reduced prices to services and facilities required to
20 provide wireless telecommunications and broadband services; and waive or
21 reduce State fees for access to State-owned rights-of-way in exchange for

1 comparable value to the State, unless payment for use is otherwise required by
2 federal law.

3 (11) receive all technical and administrative assistance as deemed
4 necessary by the Director for Connectivity.

5 (d)(1) Deployment. The Director may request voluntary disclosure of
6 information regarding deployment of broadband, telecommunications
7 facilities, or advanced metering infrastructure that is not publicly funded. Such
8 information may include data identifying projected coverage areas, projected
9 average speed of service, service type, and the anticipated date of completion
10 in addition to identifying the location and routes of proposed cables, wires, and
11 telecommunications facilities.

12 (2) The Director may enter into a nondisclosure agreement with respect
13 to any voluntary disclosures under this subsection and the information
14 disclosed pursuant thereto shall remain confidential. Alternatively, entities that
15 voluntarily provide information requested under this subsection may select a
16 third party to be the recipient of such information. The third party may
17 aggregate information provided by the entities, but shall not disclose the
18 information it has received to any person, including the Director. The third
19 party shall only disclose the aggregated information to the Director. The
20 Director may publicly disclose aggregated information based upon the
21 information provided under this subsection. The confidentiality requirements

1 of this subsection shall not affect whether information provided to any agency
2 of the State or a political subdivision of the State pursuant to other laws is or is
3 not subject to disclosure.

4 (e) Minimum technical service characteristics. The Division shall only
5 promote the expansion of broadband services that offer actual speeds of at least
6 4 Mbps downstream and 1 Mbps upstream, or the minimum broadband speeds
7 established by the Federal Communications Commission for support from the
8 Connect America Fund, whichever is higher.

9 **(f)(1) Leasing or licensing of State land. Beginning July 1, 2015, State**
10 **land may not be leased or licensed for the purpose of construction or**
11 **installation of a wireless telecommunications facility, as defined in 30**
12 **V.S.A. § 248a(b), unless authorized by the Director for Connectivity**
13 **pursuant to the requirements of this section. For purposes of this section,**
14 **“State land” means land owned in fee or interests in land owned by the**
15 **Agency of Natural Resources. No initial lease or license, including any**
16 **renewal thereof, entered into pursuant to this section shall exceed 25**
17 **years.**

18 **(2) Prior to entering into or renewing a lease or license, the Director**
19 **shall:**

20 **(A) publish notice of the proposed telecommunications facility**
21 **site in one daily newspaper of general circulation in the region of the**

1 proposed site and on the website maintained by the Agency of
2 Administration, with appropriate hyperlinks to that website on all
3 relevant, state-maintained websites; and

4 (B) Send by certified mail, return receipt requested, a written
5 notice of the proposed lease or license or renewal to the legislative body of
6 each municipality in which such leased or licensed land is located. The
7 notice shall include a description of the land to be leased or licensed and of
8 the proposed telecommunications facility to be sited on the land, including
9 the facility's height and location.

10 (g) Annual Report. Notwithstanding 2 V.S.A. § 20(d), on or before
11 January 31 of each year, the Director shall submit a report of its activities for
12 the preceding fiscal year to the General Assembly. Each report shall include
13 an operating and financial statement covering the Division's operations during
14 the year, including a summary of all grant awards and contracts and
15 agreements entered into by the Division, as well as the action plan required
16 under subdivision (c)(7) of this section. In addition, the report shall include a
17 map and narrative description of each of the following:

18 (1) the areas served and the areas not served by wireless
19 communications service, and cost estimates for providing such service to
20 unserved areas;

1 (2) the areas served and the areas not served by broadband that has a
2 download speed of at least 0.768 Mbps and an upload speed of at least 0.2
3 Mbps, and cost estimates for providing such service to unserved areas; and

4 (3) the areas served and the areas not served by broadband that has a
5 combined download and upload speed of at least 5 Mbps, and the costs for
6 providing such service to unserved areas.

7 Sec. 10. REPEAL

8 3 V.S.A. § 2222b (Secretary of Administration responsible for coordination
9 and planning); 3 V.S.A. § 2222c (Secretary of Administration to prepare
10 deployment report); **30 V.S.A. § 202c (State telecommunications policy and**
11 **planning); 30 V.S.A. § 202d (Telecommunications Plan); 30 V.S.A. § 227e**
12 **(leasing and licensing of State land for telecommunications**
13 **infrastructure); 30 V.S.A. § 8077 (minimum technical service**
14 **characteristics); and 30 V.S.A. § 8079 (broadband infrastructure**
15 **investment) are repealed.**

16 Sec. 11. CREATION OF POSITIONS; TRANSFER OF VACANT
17 POSITIONS; REEMPLOYMENT RIGHTS

18 (a) The following exempt positions are created within the Division for
19 Connectivity: one full-time Director; ~~one full-time Senior Project Manager;~~
20 ~~and three full-time Project Managers and up to six additional full-time~~
21 ~~employees as deemed necessary by the Secretary of Administration.~~

1 (b) The positions created under subsection (a) of this section shall only be
2 filled to the extent there are existing vacant positions in the Executive Branch
3 available to be transferred and converted to the new positions in the Division
4 for Connectivity, as determined by the Secretary of Administration and the
5 Commissioner of Human Resources, so that the total number of authorized
6 positions in the State shall not be increased by this act.

7 (c) All full-time personnel of the Vermont Telecommunications Authority
8 employed by the Authority on the day immediately preceding the effective date
9 of this act, who do not obtain a position in the Division for Connectivity
10 pursuant to subsection (a) of this section, shall be entitled to the same
11 reemployment or recall rights available to non-management State employees
12 under the existing collective bargaining agreement entered into between the
13 State and the Vermont State Employees' Association.

14 Sec. 12. TRANSITIONAL PROVISIONS

15 (a) Personnel. The Secretary of Administration shall determine where the
16 offices of the Division for Connectivity shall be housed.

17 (b) Assets and liabilities. The assets and liabilities of the Vermont
18 Telecommunications Authority (VTA) shall become the assets and liabilities of
19 the Agency of Administration.

20 (c) Legal and contractual obligations. The Executive Director of the VTA,
21 in consultation with the Secretary of Administration, shall identify all grants

1 and contracts of the VTA and create a plan to redesignate the Agency of
2 Administration as the responsible entity. The plan shall ensure that all existing
3 grantors, grantees, and contractors are notified of the redesignation.

4 * * * CONDUIT STANDARDS; PUBLIC HIGHWAYS * * *

5 Sec. 13. 3 V.S.A. § 2228 is added to read:

6 **§ 2228. PUBLIC HIGHWAYS; CONDUIT STANDARDS**

7 **(a) Intent. The intent of this section is to provide for the construction**
8 **of infrastructure sufficient to allow telecommunications service providers**
9 **seeking to deploy communication lines in the future to do so by pulling the**
10 **lines through the conduit and appurtenances installed pursuant to this**
11 **section. This section is intended to require those constructing public**
12 **highways, including State, municipal, and private developers, to provide**
13 **and install such conduit and appurtenances as may be necessary to**
14 **accommodate future telecommunications needs within public highways**
15 **and rights-of-way without further excavation or disturbance.**

16 **(b) Rules; standards. By January 1, 2015, the Secretary of**
17 **Administration, in consultation with the Commissioner of Public Service,**
18 **the Secretary of Transportation, and the Vermont League of Cities and**
19 **Towns, shall adopt rules requiring the installation of conduit and such**
20 **vaults and other appurtenances as may be necessary to accommodate**
21 **installation and connection of telecommunications lines within the**

1 conduit, during highway construction projects. The rules shall specify
2 construction standards with due consideration given to existing and
3 anticipated technologies and industry standards. The standards shall
4 specify the minimum diameter of the conduit and interducts to meet the
5 requirements of this section. All conduit and appurtenances installed by
6 private parties under this section shall be conveyed and dedicated to the
7 State or the municipality, as the case may be, with the dedication and
8 conveyance of the public highway or right-of-way. Any and all
9 installation costs shall be the responsibility of the party constructing the
10 public highway.

11 * * * Extension of 248a; Automatic Party Status * * *

12 Sec. 14. 30 V.S.A. § 248a is amended to read:

13 § 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS
14 FACILITIES

15 (a) Certificate. Notwithstanding any other provision of law, if the applicant
16 seeks approval for the construction or installation of telecommunications
17 facilities that are to be interconnected with other telecommunications facilities
18 proposed or already in existence, the applicant may obtain a certificate of
19 public good issued by the Public Service Board under this section, which the
20 Board may grant if it finds that the facilities will promote the general good of
21 the State consistent ~~with subsection 202e(b) of this title~~ the State

1 (1) The Secretary shall issue a decision on the application within 40
2 days of the date the Secretary determines the application to be complete, if the
3 application seeks authorization under a general permit.

4 (2) The Secretary shall issue a decision on the application within 60
5 days of the date the Secretary determines the application to be complete, if the
6 application seeks or requires authorization under an individual permit.

7 Sec. 16. 10 V.S.A. § 8506 is amended to read:

8 § 8506. RENEWABLE ENERGY PLANT; TELECOMMUNICATIONS
9 FACILITY; APPEALS

10 (a) Within 30 days of the date of the act or decision, any person aggrieved
11 by an act or decision of the ~~secretary~~ Secretary, under the provisions of law
12 listed in section 8503 of this title, or any party by right may appeal to the
13 ~~public service board~~ Public Service Board if the act or decision concerns a
14 renewable energy plant for which a certificate of public good is required under
15 30 V.S.A. § 248 or a telecommunications facility for which the applicant has
16 applied or has served notice under 30 V.S.A. § 248a(e) that it will apply for
17 approval under 30 V.S.A. § 248a. This section shall not apply to a facility that
18 is subject to section 1004 (dams before the Federal Energy Regulatory
19 Commission) or 1006 (certification of hydroelectric projects) or chapter 43
20 (dams) of this title. This section shall not apply to an appeal of an act or

1 decision of the ~~secretary~~ Secretary regarding a telecommunications facility
2 made on or after July 1, ~~2014~~ 2016.

3 * * *

4 Sec. 17. 2011 Acts and Resolves No. 53, Sec. 14d is amended to read:

5 Sec. 14d. PROSPECTIVE REPEALS; EXEMPTIONS FROM

6 MUNICIPAL BYLAWS AND ORDINANCES

7 Effective July 1, ~~2014~~ 2016:

8 (1) 24 V.S.A. § 4413(h) (limitations on municipal bylaws) shall be
9 repealed; and

10 (2) 24 V.S.A. § 2291(19) (municipal ordinances; wireless
11 telecommunications facilities) is amended to read:

12 * * *

13 Sec. 18. 3 V.S.A. § 2809 is amended to read:

14 § 2809. REIMBURSEMENT OF AGENCY COSTS

15 (a)(1) The Secretary may require an applicant for a permit, license,
16 certification, or order issued under a program that the Secretary enforces under
17 10 V.S.A. § 8003(a) to pay for the cost of research, scientific, programmatic,
18 or engineering expertise provided by the Agency of Natural Resources,
19 provided:

1 (A) ~~the~~ The Secretary does not have such expertise or services and
2 such expertise is required for the processing of the application for the permit,
3 license, certification, or order; ~~or,~~

4 (B) ~~the~~ The Secretary does have such expertise but has made a
5 determination that it is beyond the ~~agency's~~ Agency's internal capacity to
6 effectively utilize that expertise to process the application for the permit,
7 license, certification, or order. In addition, the Secretary shall determine that
8 such expertise is required for the processing of the application for the permit,
9 license, certification, or order.

10 (2) The Secretary may require an applicant under 10 V.S.A. chapter 151
11 to pay for the time of Agency of Natural Resources personnel providing
12 research, scientific, or engineering services or for the cost of expert witnesses
13 when ~~agency~~ Agency personnel or expert witnesses are required for the
14 processing of the permit application.

15 (3) In addition to the authority set forth under 10 V.S.A. chapters 59 and
16 159 and § section 1283, the Secretary may require a person who caused the
17 ~~agency~~ Agency to incur expenditures or a person in violation of a permit,
18 license, certification, or order issued by the Secretary to pay for the time of
19 ~~agency~~ Agency personnel or the cost of other research, scientific, or
20 engineering services incurred by the ~~agency~~ Agency in response to a threat to

1 public health or the environment presented by an emergency or exigent
2 circumstance.

3 * * *

4 (g) Concerning an application for a permit to discharge stormwater runoff
5 from a telecommunications facility as defined in 30 V.S.A. § 248a that is filed
6 before July 1, ~~2014~~2016:

7 (1) Under subdivision (a)(1) of this section, the ~~agency~~ Agency shall not
8 require an applicant to pay more than \$10,000.00 with respect to a facility.

9 (2) The provisions of subsection (c) (mandatory meeting) of this section
10 shall not apply.

11 * * * PSB Rules; Cable Line Extensions * * *

12 Sec. 19. PSB RULES ON CABLE LINE EXTENSIONS

13 The Public Service Board shall amend its line extension policy in Board
14 Rule 8.313 to lower density requirements, that is, the requisite verified
15 subscribers per mile, for new cable-funded line extensions beginning
16 September 1, 2014. The maximum number of verified subscribers per mile
17 above which new subscribers shall not be required to contribute to aerial cable
18 construction costs shall not exceed 12, unless the Board, after a hearing,
19 determines such maximum would prevent a company from sufficiently
20 recovering its costs, taking into consideration costs and revenues from all
21 services statewide. The Board shall require a cable company to expand service

1 to unserved areas within its franchise area where the density of locations
2 passed per mile, as determined by the Board, is equal to or exceeds the
3 maximum number of verified subscribers per mile.

4 * * * Administration Report; E-911; Vermont Communications

5 Board; VCGI; FirstNet * * *

6 Sec. 20. ADMINISTRATION REPORT; TRANSFERS AND

7 CONSOLIDATION

8 (a) On January 1, 2015, the Secretary of Administration shall submit a
9 report to the General Assembly proposing a plan for transferring the
10 responsibilities and powers of the Enhanced 911 Board, including necessary
11 positions, to the Division for Connectivity, the Department of Public Service,
12 or the Department of Public Safety, as he or she deems appropriate. The plan
13 shall include budgetary recommendations and shall strive to achieve annual
14 operational savings of at least \$300,000.00, as well as enhanced coordination
15 and efficiency, and reductions in operational redundancies. The report shall
16 include draft legislation implementing the Secretary's plan. **In addition, the**
17 **report shall include draft a recommendation for transferring**
18 **telecommunications-related positions, responsibilities, and resources of**
19 **the Vermont Center for Geographic Information to the Department of**
20 **Public Service.**

1 same manner as is set forth in subsection 225(b) of this title. Such
2 recommendation shall set forth reasons why the petition shall be accepted
3 without hearing or shall request that a hearing on the petition be scheduled. If
4 the ~~department~~ Department requests a hearing on the petition, or, if the ~~board~~
5 Board deems a hearing necessary, it shall appoint a time and place in the
6 county where the proposed corporation is to have its principal office for
7 hearing the petition, and shall make an order for the publication of the
8 substance thereof and the time and place of hearing two weeks successively in
9 a newspaper of general circulation in the county to be served by the petitioner,
10 the last publication to be at least seven days before the day appointed for the
11 hearing. The ~~director for public advocacy~~ Director for Public Advocacy shall
12 represent the public at such hearing. If the ~~board~~ Board finds that the operation
13 of such business will promote the general good of the state, **and conforms**
14 **with the State Telecommunications Plan, if applicable, it shall** give such
15 person, partnership, unincorporated association or previously incorporated
16 association a certificate of public good specifying the business and territory to
17 be served by such petitioners. For good cause, after opportunity for hearing,
18 the ~~board~~ Board may **amend** or revoke any certificate awarded under the
19 provisions of this section. If any such certificate is revoked, the person,
20 partnership, unincorporated association, or previously incorporated association
21 shall no longer have authority to conduct any business which is subject to the

1 jurisdiction of the ~~board~~ Board whether or not regulation thereunder has been
2 reduced or suspended, under section 226a or 227a of this title.

3 (b) A company subject to the general supervision of the ~~public service~~
4 ~~board~~ Public Service Board under section 203 of this title may not abandon or
5 curtail any service subject to the jurisdiction of the ~~board~~ Board or abandon all
6 or any part of its facilities if it would in doing so effect the abandonment,
7 curtailment or impairment of the service, without first obtaining approval of
8 the ~~public service board~~ Board, after notice and opportunity for hearing, and
9 upon finding by the ~~board~~ Board that the abandonment or curtailment is
10 consistent with the public interest **and the State Telecommunications Plan, if**
11 **applicable**; provided, however, this section shall not apply to disconnection of
12 service pursuant to valid tariffs or to rules adopted under section 209(b) and (c)
13 of this title.

14 Sec. 24. 30 V.S.A. § 504 is amended to read:

15 § 504. CERTIFICATES OF PUBLIC GOOD

16 (a) Certificates of public good granted under this chapter shall be for a
17 period of 11 years.

18 (b) Issuance of a certificate shall be after opportunity for hearing and
19 findings by the ~~board~~ Board that the applicant has complied or will comply
20 with requirements adopted by the ~~board~~ Board to ensure that the system
21 provides:

1 (1) designation of adequate channel capacity and appropriate facilities
2 for public, educational, or governmental use;

3 (2) adequate and technically sound facilities and equipment, and signal
4 quality;

5 (3) a reasonably broad range of public, educational, and governmental
6 programming;

7 (4) the prohibition of discrimination among customers of basic service;
8 ~~and~~

9 (5) basic service in a competitive market, and if a competitive market
10 does not exist, that the system provides basic service at reasonable rates
11 determined in accordance with section 218 of this title; and

12 **(6) service that conforms with the relevant provisions of the State**
13 **Telecommunications Plan.**

14 (c) In addition to the requirements set forth in subsection (b) of this section,
15 the ~~board~~ Board shall ~~insure~~ ensure that the system provides or utilizes:

16 (1) a reasonable quality of service for basic, premium or otherwise,
17 having regard to available technology, subscriber interest, and cost;

18 (2) construction, including installation, which conforms to all applicable
19 ~~state~~ State and federal laws and regulations and the National Electric Safety
20 Code;

1 (3) a competent staff sufficient to provide adequate and prompt service
2 and to respond quickly and comprehensively to customer and ~~department~~
3 Department complaints and problems;

4 (4) unless waived by the ~~board~~ Board, an office which shall be open
5 during usual business hours, have a listed toll-free telephone so that complaints
6 and requests for repairs or adjustments may be received; and

7 (5) reasonable rules and policies for line extensions, disconnections,
8 customer deposits, and billing practices.

9 (d) A certificate granted to a company shall represent nonexclusive
10 authority of that company to build and operate a cable television system to
11 serve customers only within specified geographical boundaries. Extension of
12 service beyond those boundaries may be made pursuant to the criteria in
13 ~~section 504 of this title~~ this section, and the procedures in section 231 of this
14 title.

15 **(e) The Board shall not grant a certificate under this section that has a**
16 **duration of more than one year for any application pending on or filed on**
17 **or after the effective date of this act until a State Telecommunications**
18 **Plan has been adopted by the Department of Public Service under 30**
19 **V.S.A. § 202d for the seven-year period beginning in 2014. The Board**
20 **shall automatically extend any certificate for renewal pending on or after**
21 **the effective date of this act for one year until a State Telecommunications**

1 **Plan has been adopted by the Department of Public Service for the seven-**
2 **year period beginning in 2014, unless the Board has good cause to not**
3 **grant an automatic renewal, but in no event shall the renewal duration**
4 **exceed one year.**

5 Sec. 25. 30 V.S.A. § 518 is added to read:

6 **§ 518. DISCLOSURE OF RETRANSMISSION FEES**

7 **A retransmission agreement entered into between a commercial**
8 **broadcasting station and a cable company pursuant to 47 U.S.C. § 325**
9 **shall not include terms prohibiting the company from disclosing to its**
10 **subscribers any fees incurred for program content retransmitted on the**
11 **cable network under the retransmission agreement.**

12 * * * Statutory Revision Authority * * *

13 Sec. 26. STATUTORY REVISION

14 **The Office of the Legislative Council pursuant to its statutory revision**
15 **authority is directed:**

16 **(1) to delete all references to “by the end of the year 2013” in 30 V.S.A.**
17 **chapter 91; and.**

18 **(2) beginning July 1, 2015, replace all cross references to 30 V.S.A.**
19 **§§ 202c and 202d in the Vermont Statutes Annotated with 3 V.S.A.**
20 **§§ 2225 and 2226, respectively.**

21 * * * Effective Dates * * *

1 Sec. 27. EFFECTIVE DATES

2 This act shall take effect on passage, except that Secs. 7, 8, 9, 10, and 11
3 (regarding the Division for Connectivity and planning duties of the Secretary
4 of Administration) shall take effect on July 1, 2015.

5

6

7 and that after passage the title of the bill be amended to read: “An act relating
8 to Vermont telecommunications policy”