

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 297
3 entitled “An act relating to duties and functions of the Department of Public
4 Service” respectfully reports that it has considered the same and recommends
5 that the Senate propose to the House that the bill be amended by striking out all
6 after 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 modern
10 telecommunications network in Vermont by making strategic investments in
11 improved technology for all Vermonters. To achieve that goal, it is the
12 purpose of this act to upgrade the State’s telecommunications objectives and
13 reorganize government functions in a manner that results in more coordinated
14 and efficient State programs and policies, and, ultimately, produces operational
15 savings that may be invested in further deployment of broadband and mobile
16 telecommunications services for the benefit of all Vermonters. In addition, it
17 is the intent of the General Assembly to update and provide for a more
18 equitable application of the Universal Service Fund (USF) surcharge.
19 Together, these operational savings and additional USF monies will raise at
20 least \$1.45 million annually, as follows:

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

3 (2) \$500,000.00 from application of the USF charge to prepaid wireless
4 telecommunications service providers; and

5 (3) \$300,000.00 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 funds
11 collected by the fiscal agent, and interest accruing thereon, shall be distributed
12 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, on or before September 1, the
19 amount of funds available to the Connectivity Fund. The Department of Public
20 Service shall publish annually a list of census blocks eligible for funding based
21 on the Department's most recent broadband mapping data. The Department

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

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

8 (2) the price to consumers of services;

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

11 (4) whether the proposal would use the best available technology that is
12 economically feasible;

13 (5) the availability of service of comparable quality and speed; and

14 (6) the objectives of the State’s Telecommunications Plan.

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

16 § 7521. CHARGE IMPOSED; WHOLESAL EXEMPTION

17 (a) A universal service charge is imposed on all retail telecommunications
18 service provided to a Vermont address. Where the location of a service and the
19 location receiving the bill differ, the location of the service shall be used to
20 determine whether the charge applies. The charge is imposed on the person
21 purchasing the service, but shall be collected by the telecommunications

1 provider. Each telecommunications service provider shall include in its tariffs
2 filed at the ~~public service board~~ Public Service Board a description of its
3 billing procedures for the universal service fund charge.

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

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

15 (d)(1) Notwithstanding any other provision of law to the contrary, in the
16 case of prepaid wireless telecommunications services, the universal service
17 charge shall be imposed on the provider in the manner determined by the
18 Public Service Board pursuant to subdivision (3) of this section.

19 (2) For purposes of this subsection, “prepaid wireless
20 telecommunications service” means a telecommunications service as defined

1 in section 203(5) of this title that a consumer pays for in advance and that is
2 sold in predetermined units or dollars that decline with use.

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

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

8 § 7523. RATE ADJUSTED ANNUALLY OF CHARGE

9 ~~(a) Annually, after considering the probable expenditures for programs~~
10 ~~funded pursuant to this chapter, the probable service revenues of the industry~~
11 ~~and seeking recommendations from the department, the public service board~~
12 ~~shall establish a rate of charge to apply during the 12 months beginning on the~~
13 ~~following September 1. However, the rate so established shall not at any time~~
14 ~~exceed two percent of retail telecommunications service. The board's decision~~
15 ~~shall be entered and announced each year before July 15. However, if the~~
16 ~~general assembly does not enact an authorization amount for E-911 before~~
17 ~~July 15, the board may defer decision until 30 days after the E-911~~
18 ~~authorization is established, and the existing charge rate shall remain in effect~~
19 ~~until the board establishes a new rate~~ Beginning on July 1, 2014, the annual
20 rate of charge shall be two percent of retail telecommunications service.

1 (b) Universal service charges imposed and collected by the fiscal agent
2 under this subchapter shall not be transferred to any other fund or used to
3 support the cost of any activity other than in the manner authorized by section
4 7511 of this title.

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

6 § 7524. PAYMENT TO FISCAL AGENT

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

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

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

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

1 (e) The fiscal agent shall examine the records of telecommunications
2 service providers to determine whether their receipts reflect application of the
3 universal service charge on all assessable telecommunications services under
4 this chapter, including the federal subscriber line charge, directory assistance,
5 enhanced services unless they are billed as separate line items, and toll-related
6 services.

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

8 **Sec. 7. 30 V.S.A. § 202c is amended to read:**

9 § 202C. STATE TELECOMMUNICATIONS; POLICY AND PLANNING

10 (a) The General Assembly finds that advances in telecommunications
11 technology and changes in federal regulatory policy are rapidly reshaping
12 telecommunications services, thereby ~~promising~~ **presenting** the people and
13 businesses of the State **with the opportunities for improved** communication
14 and access to information, while creating new challenges for maintaining a
15 robust, modern telecommunications network in Vermont.

16 (b) Therefore, to direct the benefits of improved telecommunications
17 technology to all Vermonters, it is the purpose of this section and section 202d
18 of this title to:

19 (1) Strengthen the State’s role in telecommunications planning.

20 (2) Support the universal availability of appropriate infrastructure and
21 affordable services for transmitting voice and high-speed data.

1 (3) Support the availability of modern mobile wireless
2 telecommunications services along the State’s travel corridors and in the
3 State’s communities.

4 (4) Provide for high-quality, reliable telecommunications services for
5 Vermont businesses and residents.

6 (5) Provide the benefits of future advances in telecommunications
7 technologies to Vermont residents and businesses.

8 (6) Support competitive choice for consumers among
9 telecommunications service providers and promote open access among
10 competitive service providers on nondiscriminatory terms to networks over
11 which broadband and telecommunications services are delivered.

12 (7) Support, ~~to the extent practical and cost-effective,~~ the application of
13 telecommunications technology to maintain and improve governmental and
14 public services, public safety, and the economic development of the State.

15 (8) Support deployment of broadband infrastructure that:

16 (A) Uses the best commercially available technology.

17 (B) Does not negatively affect the ability of Vermont to take
18 advantage of future improvements in broadband technology or result in
19 widespread installation of technology that becomes outmoded within a short
20 period after installation.

1 (9) In the deployment of broadband infrastructure, encourage the use of
2 existing facilities, such as existing utility poles and corridors and other
3 structures, in preference to the construction of new facilities or the replacement
4 of existing structures with taller structures.

5 (10) Support measures designed to ensure that by the end of the year
6 2024 every E-911 business and residential location in Vermont has
7 infrastructure capable of delivering Internet access with service that has a
8 minimum **download** speed of 100 Mbps **and is symmetrical.**

9 **Sec. 8. 30 V.S.A. § 202d is amended to read:**

10 § 202D. TELECOMMUNICATIONS PLAN

11 (a) The ~~department of public service~~ Department of Public Service shall
12 constitute the responsible planning agency of the ~~state~~ State for the purpose of
13 obtaining for all consumers in the ~~state~~ State stable and predictable rates and a
14 technologically advanced telecommunications network serving all service
15 areas in the ~~state~~ State. The ~~department of public service~~ Department shall be
16 responsible for the provision of plans for meeting emerging trends related to
17 telecommunications technology, markets, financing, and competition.

18 (b) The ~~department of public service~~ Department shall prepare a
19 ~~telecommunications plan~~ Telecommunications Plan for the ~~state~~ State. The
20 ~~department of innovation and information~~ Department of Innovation and
21 Information, the **Division for Connectivity** and the agency of commerce and

1 ~~community development~~ Agency of Commerce and Community Development
2 shall assist the ~~department of public service~~ Department of Public Service in
3 preparing the ~~plan~~ Plan. The ~~plan~~ Plan shall be for a ~~seven-year~~ **ten-year**
4 period and shall serve as a basis for ~~state~~ State telecommunications policy.

5 Prior to preparing the ~~plan~~ Plan, the ~~department of public service~~ Department
6 shall prepare:

7 (1) an overview, looking ~~seven~~ **ten** years ahead, of future requirements
8 for telecommunications services, considering services needed for economic
9 development, technological advances, and other trends and factors which, as
10 determined by the ~~department of public service~~ Department of Public Service,
11 will significantly affect ~~state~~ State telecommunications policy and programs;

12 (2) a survey of Vermont residents and businesses, conducted in
13 cooperation with the ~~agency of commerce and community development~~
14 Agency of Commerce and Community Development and the Division for
15 **Connectivity**, to determine what telecommunications services are needed now
16 and in the succeeding ~~seven~~ ten years;

17 (3) an assessment of the current state of telecommunications
18 infrastructure;

19 (4) an assessment, conducted in cooperation with the ~~department of~~
20 ~~innovation and information~~ Department of Innovation and Information and the
21 **Division for Connectivity**, of the current ~~state~~ State telecommunications

1 system and evaluation of alternative proposals for upgrading the system to
2 provide the best available and affordable technology for use by government;
3 and

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

7 (c) In developing the ~~plan~~ Plan, the ~~department~~ Department shall take into
8 account the policies and goals of section 202c of this title.

9 (d) In establishing plans, public hearings shall be held and the ~~department~~
10 ~~of public service~~ Department shall consult with members of the public,
11 representatives of telecommunications utilities, other providers, and other
12 interested ~~state~~ State agencies, particularly the ~~agency of commerce and~~
13 ~~community development~~ Agency of Commerce and Community Development,
14 **the Division for Connectivity**, and the ~~department of innovation and~~
15 ~~information~~ Department of Innovation and Information, whose views shall be
16 considered in preparation of the ~~plan~~ Plan. To the extent necessary, the
17 ~~department of public service~~ Department shall include in the ~~plan~~ Plan surveys
18 to determine existing, needed, and desirable plant improvements and
19 extensions, access and coordination between telecommunications providers,
20 methods of operations, and any change that will produce better service or
21 reduce costs. To this end, the ~~department of public service~~ Department may

1 require the submission of data by each company subject to supervision by the
2 ~~public service board~~ Public Service Board.

3 (e) Before adopting a ~~plan~~ Plan, the ~~department~~ Department shall conduct
4 public hearings on a final draft and shall consider the testimony presented at
5 such hearings in preparing the final ~~plan~~ Plan. At least one hearing shall be
6 held jointly with ~~committees~~ Committees of the ~~general assembly~~ General
7 Assembly designated by the ~~general assembly~~ General Assembly for this
8 purpose. The ~~plan~~ Plan shall be adopted by ~~September 1, 2004~~ September 1,
9 2014.

10 (f) The ~~department~~ Department, from time to time, but in no event less than
11 every three years, institute proceedings to review a ~~plan~~ Plan and make
12 revisions, where necessary. The three-year major review shall be made
13 according to the procedures established in this section for initial adoption of
14 the ~~plan~~ Plan. For good cause or upon request by a ~~joint resolution~~ Joint
15 Resolution passed by the ~~general assembly~~ General Assembly, an interim
16 review and revision of any section of the ~~plan~~ Plan may be made after
17 conducting public hearings on the interim revision. At least one hearing shall
18 be held jointly with ~~committees~~ Committees of the ~~general assembly~~ General
19 Assembly designated by the ~~general assembly~~ General Assembly for this
20 purpose.

1 (g) The Department shall review and update the minimum technical
2 service characteristic objectives not less than every three years beginning
3 in 2017. In the event such review is conducted separately from an update
4 of the Plan, the Department shall issue revised minimum technical service
5 characteristic objectives as an amendment to the Plan.

6 Sec. 9. 3 V.S.A. § 2225 is added to read:

7 § 2225. DIVISION FOR CONNECTIVITY

8 (a) Creation. The Division for Connectivity is created within the Agency
9 of Administration as the successor in interest to and the continuation of the
10 Vermont Telecommunications Authority. A Director for Connectivity shall be
11 appointed by the Secretary of Administration. The Division shall receive
12 administrative support from the Agency.

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

14 (1) access to affordable broadband service to all residences and
15 businesses in all regions of the State, to be achieved in a manner that is
16 consistent with the State Telecommunications Plan;

17 (2) universal availability of mobile telecommunication services,
18 including voice and high-speed data along roadways, and near universal
19 availability statewide;

20 (3) investment in telecommunications infrastructure in the State that
21 creates or completes the network for service providers to create last-mile

1 connection to the home or business and supports the best available and
2 economically feasible service capabilities;

3 (4) the continuous upgrading of telecommunications and broadband
4 infrastructure in all areas of the State is to reflect the rapid evolution in the
5 capabilities of available mobile telecommunications and broadband
6 technologies, and in the capabilities of mobile telecommunications and
7 broadband services needed by persons, businesses, and institutions in the
8 State; and

9 (5) the most efficient use of both public and private resources through
10 State policies by encouraging the development of open access
11 telecommunications infrastructure that can be shared by multiple service
12 providers.

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

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

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

19 (3) inventory and assess the potential to use federal radio frequency
20 licenses held by instrumentalities of the State to enable broadband service in
21 unserved areas of the State; take steps to promote the use of those licensed

1 radio frequencies for that purpose; and recommend to the General Assembly
2 any further legislative measures with respect to ownership, management, and
3 use of these licenses as would promote the general good of the State.

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

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

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

16 (7) formulate an action plan that conforms with the State
17 Telecommunications Plan and carries out the purposes stated in subsection (b)
18 of this section;

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

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

4 (10) through the Department of Innovation and Information, aggregate
5 and broker access at reduced prices to services and facilities required to
6 provide wireless telecommunications and broadband services; and waive or
7 reduce State fees for access to State-owned rights-of-way in exchange for
8 comparable value to the State, unless payment for use is otherwise required by
9 federal law.

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

12 (d)(1) Deployment. The Director may request voluntary disclosure of
13 information regarding deployment of broadband, telecommunications
14 facilities, or advanced metering infrastructure that is not publicly funded. Such
15 information may include data identifying projected coverage areas, projected
16 average speed of service, service type, and the anticipated date of completion
17 in addition to identifying the location and routes of proposed cables, wires, and
18 telecommunications facilities.

19 (2) The Director may enter into a nondisclosure agreement with respect
20 to any voluntary disclosures under this subsection and the information
21 disclosed pursuant thereto shall remain confidential. Alternatively, entities that

1 voluntarily provide information requested under this subsection may select a
2 third party to be the recipient of such information. The third party may
3 aggregate information provided by the entities, but shall not disclose the
4 information it has received to any person, including the Director. The third
5 party shall only disclose the aggregated information to the Director. The
6 Director may publicly disclose aggregated information based upon the
7 information provided under this subsection. The confidentiality requirements
8 of this subsection shall not affect whether information provided to any agency
9 of the State or a political subdivision of the State pursuant to other laws is or is
10 not subject to disclosure.

11 (e) Minimum technical service characteristics. **The Division only shall**
12 **promote the expansion of broadband services that offer actual speeds that**
13 **meet or exceed the minimum technical service characteristic objectives**
14 **contained in the State’s Telecommunications Plan.**

15 (f) Annual Report. Notwithstanding 2 V.S.A. § 20(d), on or before
16 January 15 of each year, the Director shall submit a report of its activities for
17 the preceding fiscal year to the General Assembly. Each report shall include
18 an operating and financial statement covering the Division’s operations during
19 the year, including a summary of all grant awards and contracts and
20 agreements entered into by the Division, as well as the action plan required

1 under subdivision (c)(7) of this section. In addition, the report shall include a
2 map and narrative description of each of the following:

3 (1) the areas served and the areas not served by wireless
4 communications service, as identified by the Department of Public Service,
5 and cost estimates for providing such service to unserved areas;

6 (2) the areas served and the areas not served by broadband that has a
7 download speed of at least 0.768 Mbps and an upload speed of at least 0.2
8 Mbps, as identified by the Department of Public Service, and cost estimates
9 for providing such service to unserved areas;

10 (3) the areas served and the areas not served by broadband that has a
11 combined download and upload speed of at least 5 Mbps, as identified by the
12 Department of Public Service, and the costs for providing such service to
13 unserved areas; and

14 (4) the areas served and the areas not served by broadband that has
15 a download speed of at least 100 Mbps and is symmetrical, as identified by
16 the Department of Public Service, and the costs for providing such service
17 to unserved areas.

18 Sec. 10. REPEAL

19 3 V.S.A. § 2222b (Secretary of Administration responsible for coordination
20 and planning); 3 V.S.A. § 2222c (Secretary of Administration to prepare
21 deployment report); 30 V.S.A. § 8077 (minimum technical service

1 characteristics); and 30 V.S.A. § 8079 (broadband infrastructure investment)
2 are repealed.

3 Sec. 11. CREATION OF POSITIONS; TRANSFER OF VACANT
4 POSITIONS; REEMPLOYMENT RIGHTS

5 (a) The following exempt positions are created within the Division for
6 Connectivity: one full-time Director and up to six additional full-time
7 employees as deemed necessary by the Secretary of Administration.

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

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

21 Sec. 12. TRANSITIONAL PROVISIONS

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

3 (b) Assets and liabilities. The assets and liabilities of the Vermont
4 Telecommunications Authority (VTA) shall become the assets and liabilities of
5 the Agency of Administration.

6 (c) Legal and contractual obligations. The Executive Director of the VTA,
7 in consultation with the Secretary of Administration, shall identify all grants
8 and contracts of the VTA and create a plan to redesignate the Agency of
9 Administration as the responsible entity. The plan shall ensure that all existing
10 grantors, grantees, and contractors are notified of the redesignation.

11 * * * Conduit Standards; Public Highways * * *

12 Sec. 13. 3 V.S.A. § 2226 is added to read:

13 § 2226. PUBLIC HIGHWAYS; CONDUIT STANDARDS

14 (a) Intent. The intent of this section is to provide for the construction of
15 infrastructure sufficient to allow telecommunications service providers seeking
16 to deploy communication lines in the future to do so by pulling the lines
17 through the conduit and appurtenances installed pursuant to this section. This
18 section is intended to require those constructing public highways, including
19 State, municipal, and private developers, to provide and install such conduit
20 and appurtenances as may be necessary to accommodate future

1 telecommunications needs within public highways and rights-of-way without
2 further excavation or disturbance.

3 (b) Rules; standards. On or before January 1, 2015, the Secretary of
4 Administration, in consultation with the Commissioner of Public Service, the
5 Secretary of Transportation, and the Vermont League of Cities and Towns,
6 shall adopt rules requiring the installation of conduit and such vaults and other
7 appurtenances as may be necessary to accommodate installation and
8 connection of telecommunications lines within the conduit during highway
9 construction projects. The rules shall specify construction standards with due
10 consideration given to existing and anticipated technologies and industry
11 standards. The standards shall specify the minimum diameter of the conduit
12 and interducts to meet the requirements of this section. All conduit and
13 appurtenances installed by private parties under this section shall be conveyed
14 and dedicated to the State or the municipality, as the case may be, with the
15 dedication and conveyance of the public highway or right-of-way. Any and all
16 installation costs shall be the responsibility of the party constructing the public
17 highway.

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

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

20 § 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS

21 FACILITIES

1 (a) Certificate. Notwithstanding any other provision of law, if the applicant
2 seeks approval for the construction or installation of telecommunications
3 facilities that are to be interconnected with other telecommunications facilities
4 proposed or already in existence, the applicant may obtain a certificate of
5 public good issued by the Public Service Board under this section, which the
6 Board may grant if it finds that the facilities will promote the general good of
7 the State consistent with ~~subsection 202c(b) of this title~~ the State
8 Telecommunications Plan. A single application may seek approval of one or
9 more telecommunications facilities. An application under this section shall
10 include a copy of each other State and local permit, certificate, or approval that
11 has been issued for the facility under a statute, ordinance, or bylaw pertaining
12 to the environment or land use.

13 * * *

14 (i) Sunset of Board authority. Effective July 1, ~~2014~~ 2016, no new
15 applications for certificates of public good under this section may be
16 considered by the Board.

17 * * *

18 (m) Municipal bodies; participation. The legislative body and the planning
19 commission for the municipality in which a telecommunications facility is
20 located shall have the right to appear and participate on any application under
21 this section seeking a certificate of public good for the facility.

1 Sec. 15. 10 V.S.A. § 1264(j) is amended to read:

2 (j) Notwithstanding any other provision of law, if an application to
3 discharge stormwater runoff pertains to a telecommunications facility as
4 defined in 30 V.S.A. § 248a and is filed before July 1, ~~2014~~ 2016 and the
5 discharge will be to a water that is not principally impaired by stormwater
6 runoff:

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

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

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

14 § 8506. RENEWABLE ENERGY PLANT; TELECOMMUNICATIONS
15 FACILITY; APPEALS

16 (a) Within 30 days of the date of the act or decision, any person aggrieved
17 by an act or decision of the ~~secretary~~ Secretary, under the provisions of law
18 listed in section 8503 of this title, or any party by right may appeal to the
19 ~~public service board~~ Public Service Board if the act or decision concerns a
20 renewable energy plant for which a certificate of public good is required under
21 30 V.S.A. § 248 or a telecommunications facility for which the applicant has

1 applied or has served notice under 30 V.S.A. § 248a(e) that it will apply for
2 approval under 30 V.S.A. § 248a. This section shall not apply to a facility that
3 is subject to section 1004 (dams before the Federal Energy Regulatory
4 Commission) or 1006 (certification of hydroelectric projects) or chapter 43
5 (dams) of this title. This section shall not apply to an appeal of an act or
6 decision of the ~~secretary~~ Secretary regarding a telecommunications facility
7 made on or after July 1, ~~2014~~ 2016.

8 * * *

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

10 Sec. 14d. PROSPECTIVE REPEALS; EXEMPTIONS FROM

11 MUNICIPAL BYLAWS AND ORDINANCES

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

13 (1) 24 V.S.A. § 4413(h) (limitations on municipal bylaws) shall be
14 repealed; and

15 (2) 24 V.S.A. § 2291(19) (municipal ordinances; wireless
16 telecommunications facilities) is amended to read:

17 * * *

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

19 § 2809. REIMBURSEMENT OF AGENCY COSTS

20 (a)(1) The Secretary may require an applicant for a permit, license,
21 certification, or order issued under a program that the Secretary enforces under

1 10 V.S.A. § 8003(a) to pay for the cost of research, scientific, programmatic,
2 or engineering expertise provided by the Agency of Natural Resources,
3 provided:

4 (A) ~~the~~ The Secretary does not have such expertise or services and
5 such expertise is required for the processing of the application for the permit,
6 license, certification, or order; ~~or.~~

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

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

18 (3) In addition to the authority set forth under 10 V.S.A. chapters 59 and
19 159 and § section 1283, the Secretary may require a person who caused the
20 ~~agency~~ Agency to incur expenditures or a person in violation of a permit,
21 license, certification, or order issued by the Secretary to pay for the time of

1 ~~agency~~ Agency personnel or the cost of other research, scientific, or
2 engineering services incurred by the ~~agency~~ Agency in response to a threat to
3 public health or the environment presented by an emergency or exigent
4 circumstance.

5 * * *

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

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

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

13 * * * Administration Report; E-911; Vermont Communications
14 Board; VCGI; FirstNet * * *

15 Sec. 19. ADMINISTRATION REPORT; TRANSFERS AND

16 CONSOLIDATION

17 (a) On January 1, 2015, the Secretary of Administration shall submit a
18 report to the General Assembly proposing a plan for transferring the
19 responsibilities and powers of the Enhanced 911 Board, including necessary
20 positions, to the Division for Connectivity, the Department of Public Service,
21 or the Department of Public Safety, as he or she deems appropriate. The plan

1 shall include budgetary recommendations and shall strive to achieve annual
2 operational savings of at least \$300,000.00, as well as enhanced coordination
3 and efficiency, and reductions in operational redundancies. The report shall
4 include draft legislation implementing the Secretary’s plan. In addition, the
5 report shall include a draft recommendation for transferring
6 telecommunications-related positions, responsibilities, and resources of the
7 Vermont Center for Geographic Information to the Department of Public
8 Service.

9 (b) As part of the report required in subsection (a) of this section, the
10 Secretary shall also make findings and recommendations regarding the status
11 of the Vermont Communications Board, Department of Public Safety, and the
12 **Vermont Public Safety Broadband Network Commission (Vermont**
13 **FirstNet).** If not prohibited by federal law, the Secretary shall propose draft
14 legislation creating an advisory board within the Division for Connectivity or
15 the Department of Public Safety comprised of 15 members appointed by the
16 Governor to assume functions of the current Enhanced 911 Board, the
17 Vermont Communications Board, the Vermont Public Safety Broadband
18 Network Commission (FirstNet), and relevant telecommunications-related
19 aspects of the Vermont Center for Geographic Information Board of Directors,
20 as the Secretary deems appropriate. Upon establishment of the new advisory

1 board and not later than July 1, 2015, the E-911 Board and the Vermont
2 Communications Board shall cease to exist.

3 ***** DPS Deployment Report *****

4 Sec. 20. DEPARTMENT OF PUBLIC SERVICE; DEPLOYMENT REPORT

5 On July 15, 2015, the Commissioner of Public Service shall submit to the
6 General Assembly a report, including maps, indicating the service type and
7 average speed of service of mobile telecommunications and broadband
8 services available within the State by census block as of June 30, 2015.

9 ***** VTA; Dormant Status *****

10 Sec. 21. 30 V.S.A. § 8060a is added to read:

11 § 8060a. PERIOD OF DORMANCY

12 Beginning on July 1, 2015, the Division for Connectivity established under
13 3 V.S.A. § 2225 shall become the successor in interest to and the continuation
14 of the Vermont Telecommunications Authority. The Authority shall cease all
15 operations and shall not resume its duties as specified under this chapter or
16 under any other Vermont law unless directed to do so by enactment of the
17 General Assembly.

18 ***** Telecommunications; CPGs; Annual Renewals;**

19 **Retransmission Fees *****

20 Sec. 22. 30 V.S.A. § 231 is amended to read:

1 § 231. CERTIFICATE OF PUBLIC GOOD; ABANDONMENT OF
2 SERVICE; HEARING

3 (a) A person, partnership, unincorporated association, or previously
4 incorporated association, which desires to own or operate a business over
5 which the ~~public service board~~ Public Service Board has jurisdiction under the
6 provisions of this chapter shall first petition the ~~board~~ Board to determine
7 whether the operation of such business will promote the general good of the
8 ~~state~~, State and conforms with the State Telecommunications Plan, if
9 applicable, and shall at that time file a copy of any such petition with the
10 ~~department~~ Department. The ~~department~~ Department, within 12 days, shall
11 review the petition and file a recommendation regarding the petition in the
12 same manner as is set forth in subsection 225(b) of this title. Such
13 recommendation shall set forth reasons why the petition shall be accepted
14 without hearing or shall request that a hearing on the petition be scheduled. If
15 the ~~department~~ Department requests a hearing on the petition, or, if the ~~board~~
16 Board deems a hearing necessary, it shall appoint a time and place in the
17 county where the proposed corporation is to have its principal office for
18 hearing the petition, and shall make an order for the publication of the
19 substance thereof and the time and place of hearing two weeks successively in
20 a newspaper of general circulation in the county to be served by the petitioner,
21 the last publication to be at least seven days before the day appointed for the

1 hearing. The ~~director for public advocacy~~ Director for Public Advocacy shall
2 represent the public at such hearing. If the ~~board~~ Board finds that the operation
3 of such business will promote the general good of the ~~state~~, State and will
4 conform with the State Telecommunications Plan, if applicable, it shall give
5 such person, partnership, unincorporated association or previously
6 incorporated association a certificate of public good specifying the business
7 and territory to be served by such petitioners. For good cause, after
8 opportunity for hearing, the ~~board~~ Board may amend or revoke any certificate
9 awarded under the provisions of this section. If any such certificate is revoked,
10 the person, partnership, unincorporated association, or previously incorporated
11 association shall no longer have authority to conduct any business which is
12 subject to the jurisdiction of the ~~board~~ Board whether or not regulation
13 thereunder has been reduced or suspended, under section 226a or 227a of
14 this title.

15 (b) A company subject to the general supervision of the ~~public service~~
16 ~~board~~ Public Service Board under section 203 of this title may not abandon or
17 curtail any service subject to the jurisdiction of the ~~board~~ Board or abandon all
18 or any part of its facilities if it would in doing so effect the abandonment,
19 curtailment or impairment of the service, without first obtaining approval of
20 the ~~public service board~~ Board, after notice and opportunity for hearing, and
21 upon finding by the ~~board~~ Board that the abandonment or curtailment is

1 consistent with the public interest and the State Telecommunications Plan, if
2 applicable; provided, however, this section shall not apply to disconnection of
3 service pursuant to valid tariffs or to rules adopted under section 209(b) and (c)
4 of this title.

5 Sec. 23. 30 V.S.A. § 504 is amended to read:

6 § 504. CERTIFICATES OF PUBLIC GOOD

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

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

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

15 (2) adequate and technically sound facilities and equipment, and signal
16 quality;

17 (3) a reasonably broad range of public, educational, and governmental
18 programming;

19 (4) the prohibition of discrimination among customers of basic
20 service; ~~and~~

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

4 (6) service that conforms with the relevant provisions of the State
5 Telecommunications Plan.

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

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

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

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

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

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

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

7 **(e) Subdivision (b)(6) of this section (regarding conformity with the**
8 **State Telecommunications Plan) shall apply only to certificates that expire**
9 **or new applications that are filed after the year 2014.**

10 Sec. 24. 30 V.S.A. § 518 is added to read:

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

12 A retransmission agreement entered into between a commercial
13 broadcasting station and a cable company pursuant to 47 U.S.C. § 325 shall not
14 include terms prohibiting the company from disclosing to its subscribers any
15 fees incurred for program content retransmitted on the cable network under the
16 retransmission agreement.

17 * * * Statutory Revision Authority * * *

18 Sec. 25. LEGISLATIVE COUNCIL STATUTORY REVISION

19 AUTHORITY; LEGISLATIVE INTENT

1 (a) The staff of the Office of the Legislative Council in its statutory
2 revision capacity is authorized and directed to amend the Vermont Statutes
3 Annotated as follows:

4 (1) deleting all references to “by the end of the year 2013” in 30 V.S.A.
5 chapter 91; and

6 (2) during the interim of the 2015 biennium of the General
7 Assembly, in 30 V.S.A. § 227e, replacing every instance of the words
8 “Secretary of Administration” and “Secretary” with the words “Director
9 for Connectivity” and “Director,” respectively.

10 (b) Any duties and responsibilities that arise by reference to the
11 Division for Connectivity in the Vermont Statutes Annotated shall not be
12 operative until the Division is established pursuant to 3 V.S.A. § 2225.

13 * * * Effective Dates * * *

14 Sec. 26. EFFECTIVE DATES

15 This act shall take effect on passage, except that Secs. 9, 10, and 11
16 (regarding the Division for Connectivity) shall take effect on July 1, 2015.

17

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

20

21

1 (Committee vote: _____)

2

3

Senator _____

4

FOR THE COMMITTEE