

1 Introduced by Committee on Finance

2 Referred to Committee on

3 Date:

4 Subject: Telecommunications; Vermont Telecommunications Authority;

5 Agency of Commerce and Community Development; Department of

6 Economic Development; Division of Connectivity; universal service

7 fund; prepaid wireless providers

8 Statement of purpose of bill as introduced: This bill proposes to create a

9 Division of Connectivity within the Department of Economic Development as

10 the successor in interest to and continuation of the Vermont

11 Telecommunications Authority, and to provide a method for collecting the

12 universal service charge from prepaid wireless providers.

13 An act relating to the Vermont Telecommunications Authority and creation  
14 of the Division of Connectivity

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

16 Sec. 1. 3 V.S.A. § 2471c is added to read:

17 § 2471c. DIVISION OF CONNECTIVITY

18 (a) Creation. The Division of Connectivity is created within the

19 Department of Economic Development as the successor in interest to and the

20 continuation of the Vermont Telecommunications Authority.

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

2                   **(1) statewide, universal availability of affordable broadband and mobile**  
3                   **telecommunications services that are continually upgraded to reflect the best**  
4                   **available and most economically feasible service capabilities; and**

5                   **(2) the most efficient use of both public and private resources through**  
6                   **State policies by encouraging the development of open access**  
7                   **telecommunications infrastructure that can be shared by multiple service**  
8                   **providers.**

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

10                   **(1) provide resources to local, regional, public, and private entities in the**  
11                   **form of grants and other incentives;**

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

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

1        (d) Minimum technical service characteristics. The Division shall only  
2        promote to the expansion of broadband services that employ equipment  
3        capable of a data transmission rate of not less than three megabits per second  
4        and offer a service plan with a data transmission rate of not less than 1.5  
5        megabits per second in at least one direction to unserved areas.

6        (e) Annual Report. Notwithstanding 2 V.S.A. § 20(d), on or before  
7        January 31 of each year, the Director shall submit a report of its activities for  
8        the preceding fiscal year to the General Assembly. Each report shall include  
9        an operating and financial statement covering the Division’s operations during  
10       the year, including a summary of all grant awards and contracts and  
11       agreements entered into by the Division.

12       Sec. 2. REPEAL

13       30 V.S.A. chapter 91 (Vermont Telecommunications Authority) is repealed.

14       Sec. 3. CREATION OF POSITIONS; TRANSFER OF VACANT  
15       POSITIONS; REEMPLOYMENT RIGHTS

16       (a) The following exempt positions are created within the Division of  
17       Connectivity: one full-time Director; one full-time Senior Project Manager;  
18       and one full-time Project Manager.

19       (b) The positions created under subsection (a) of this section shall only be  
20       filled to the extent there are existing vacant positions in the Executive Branch  
21       available to be transferred and converted to the new positions in the Division

1 of Connectivity, as determined by the Secretary of Administration and the  
2 Commissioner of Human Resources, so that the total number of authorized  
3 positions in the State shall not be increased by this act.

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

11 Sec. 4. TRANSITIONAL PROVISIONS

12 (a) Personnel. The Secretary of Commerce and Community Development  
13 shall determine where the offices of the Division of Connectivity shall be  
14 housed.

15 (b) Assets and liabilities. The assets and liabilities of the Vermont  
16 Telecommunications Authority (VTA) shall become the assets and liabilities of  
17 the Agency of Commerce and Community Development, except that all  
18 telecommunications facilities and infrastructure owned by the VTA shall  
19 become the property of the Department of Buildings and General Services.

20 (c) Legal and contractual obligations. The Executive Director of the VTA,  
21 in consultation with the Secretary of Commerce and Community Development,

1 shall identify all grants and contracts of the VTA and create a plan to  
2 redesignate the Agency of Commerce and Community Development or the  
3 Department of Buildings and General Services as the responsible entity, as  
4 appropriate. The plan shall ensure that all existing grantors, grantees, and  
5 contractors are notified of the redesignation.

6 Sec. 5. 30 V.S.A. § 202d(g) is added to read:

7 (g) The Department of Public Service shall, as part of the Plan required by  
8 this section, identify minimum technical service characteristics which ought to  
9 be available as part of broadband services commonly sold to residential and  
10 small business users throughout the State. In this chapter, “broadband” means  
11 high speed Internet access. The Department shall consider the performance  
12 characteristics of broadband services needed to support current and emerging  
13 applications of broadband services. The Department shall review and update  
14 the minimum characteristics established under this section not less than every  
15 three years beginning in 2014. In the event such review is conducted  
16 separately from an update of the State Telecommunications Plan, the  
17 Department shall issue revised minimum technical service characteristics as an  
18 amendment to the Plan.

19 Sec. 6. NOTICE TO UNSERVED

20 On June 1, 2014 the Vermont Telecommunications Authority, in  
21 conjunction with the Agency of Commerce and Community Development and

1 the Department of Public Service, shall send to each person a written notice  
2 communicating the status of broadband deployment as it affects him or her.  
3 Such notice shall include an explanation as to why the person is unserved and a  
4 date by which the person may expect to be served. For purposes of this  
5 section, “person” means the owner of an E-911 address who, as of December  
6 31, 2013, is unserved according to the most recent comprehensive and verified  
7 geographic inventory available from Vermont’s Broadband Mapping Initiative.

8 \* \* \* Universal Service Fund; Prepaid Wireless Providers \* \* \*

9 Sec. 7. 30 V.S.A. § 7521 is amended to read:

10 § 7521. CHARGE IMPOSED; WHOLESale EXEMPTION

11 (a) A universal service charge is imposed on all retail telecommunications  
12 service provided to a Vermont address. Where the location of a service and the  
13 location receiving the bill differ, the location of the service shall be used to  
14 determine whether the charge applies. The charge is imposed on the person  
15 purchasing the service, but shall be collected by the telecommunications  
16 provider. Each telecommunications service provider shall include in its tariffs  
17 filed at the ~~public service board~~ Public Service Board a description of its  
18 billing procedures for the universal service fund charge.

19 (b) The universal service charge shall not apply to wholesale transactions  
20 between telecommunications service providers where the service is a  
21 component part of a service provided to an end user. This exemption includes,

1 ~~but is not limited to~~, network access charges and interconnection charges paid  
2 to a local exchange carrier.

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

9 (d)(1) Notwithstanding subdivision 7501(b)(5)(B)(vi) of this chapter,  
10 beginning January 1, 2015, the universal service charge shall be imposed on all  
11 retail sales of prepaid wireless telecommunications service subject to the sales  
12 and use tax imposed under 32 V.S.A. chapter 233. The charges shall be  
13 collected by sellers and remitted to the Department of Taxes in the manner  
14 provided under 32 V.S.A. chapter 233. Upon receipt of the charges, the  
15 Department of Taxes shall have 30 days to remit the funds to the fiscal agent  
16 selected under section 7503 of this chapter. The Commissioner of Taxes shall  
17 establish registration and payment procedures applicable to the universal  
18 service charge imposed under this subsection consistent with the registration  
19 and payment procedures that apply to the sales tax imposed on such services.

1           (2) If a minimal amount of prepaid wireless telecommunications service  
2           is sold with a prepaid wireless device for a single, nonitemized price, then the  
3           seller may elect not to apply the charge to such transaction.

4           (3) As used in this subsection:

5                   (A) “Minimal amount” means an amount of service denominated as  
6                   not more than 10 minutes or not more than \$5.00.

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

11                  (C) “Seller” means a person who sells prepaid wireless telecommunications  
12                  service to a consumer.

13           Sec. 8. EFFECTIVE DATES

14                  This act shall take effect on passage, except that Secs. 1, 2, 3, 4, and 5 shall  
15                  take effect on July 1, 2014.