

1 **Code for this Draft Committee Amendment**

2 **Yellow** – TBD by Committee; *or new language added and updated*

3 *2/25, upon Committee request.*

4 **Bolded language** – to be removed, once issue decided

5 *(Draft submitted to editors 2/25/15 A.M., final version pending their edits.)*

6

7 TO THE HOUSE OF REPRESENTATIVES:

8 The Committee on Commerce and Economic Development to which was
9 referred House Bill No. 117 entitled “An act relating to creating a Division for
10 Telecommunications and Connectivity within the Department of Public
11 Service” respectfully reports that it has considered the same and recommends
12 that the bill be amended by striking out all after the enacting clause and
13 inserting in lieu thereof the following:

14 Sec. 1. REPEAL

15 3 V.S.A. § 2225 (creating the Division for Connectivity within the Agency
16 of Administration) and 2014 Acts and Resolves No. 190, Secs. 12 (Division
17 for Connectivity), 14 (creation of positions; transfer; reemployment rights),
18 and 30(a)(2) and (b) (statutory revision authority regarding the Division for
19 Connectivity) are repealed.

1 Sec. 2. 30 V.S.A. § 1 is amended to read:

2 § 1. COMPOSITION OF DEPARTMENT

3 (a) The ~~department of public service~~ Department of Public Service shall
4 consist of the ~~commissioner of public service, a director for regulated utility~~
5 ~~planning, a director for public advocacy, a director for energy efficiency,~~
6 Commissioner of Public Service, a Director for Regulated Utility Planning,
7 a Director for Public Advocacy, a Director for Energy Efficiency, a Director
8 for Telecommunications and Connectivity, and such other persons as the
9 ~~commissioner~~ Commissioner considers necessary to conduct the business of
10 the ~~department~~ Department.

11 (b) The ~~commissioner of public service~~ Commissioner shall be appointed
12 by the ~~governor~~ Governor with the advice and consent of the ~~senate~~ Senate.
13 The ~~commissioner of public service~~ Commissioner shall serve for a term of
14 two years beginning on February 1 of the year in which the appointment is
15 made. The ~~commissioner~~ Commissioner shall serve at the pleasure of the
16 ~~governor~~ Governor. The ~~directors for regulated utility planning, for energy~~
17 ~~efficiency and for public advocacy~~ Directors for Regulated Utility Planning,
18 for Public Advocacy, and for Energy Efficiency shall be appointed by the
19 ~~commissioner~~ Commissioner. The Director for Telecommunications and
20 Connectivity shall be appointed by the Commissioner in consultation with the
21 Secretary of Administration.

1 (c) The ~~director for public advocacy~~ Directors for Public Advocacy and for
2 Telecommunications and Connectivity may employ, with the approval of the
3 ~~commissioner~~ Commissioner, legal counsel and other experts, and clerical
4 assistance, and the ~~directors of regulated utility planning and energy efficiency~~
5 Directors for Regulated Utility Planning and for Energy Efficiency may
6 employ, with the approval of the ~~commissioner~~ Commissioner, experts and
7 clerical assistance.

8 Sec. 3. 30 V.S.A. § 202d is amended to read:

9 § 202d. TELECOMMUNICATIONS PLAN

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

17 (b) The Department shall prepare a Telecommunications Plan for the State.
18 The Department of Innovation and Information, ~~the Division for Connectivity~~
19 ~~and~~ the Agency of Commerce and Community Development, and the Agency
20 of Transportation shall assist the Department ~~of Public Service~~ in preparing the
21 Plan. The Plan shall be for a ten-year period and shall serve as a basis for State

1 telecommunications policy. Prior to preparing the Plan, the Department shall
2 prepare:

3 (1) an overview, looking ten years ahead, of future requirements for
4 telecommunications services, considering services needed for economic
5 development, technological advances, and other trends and factors which, as
6 determined by the Department of Public Service, will significantly affect State
7 telecommunications policy and programs;

8 (2) a survey of Vermont residents and businesses, conducted in
9 cooperation with the Agency of Commerce and Community Development ~~and~~
10 ~~the Division for Connectivity~~, to determine what telecommunications services
11 are needed now and in the succeeding ten years;

12 (3) an assessment of the current state of telecommunications
13 infrastructure;

14 (4) an assessment, conducted in cooperation with the Department of
15 Innovation and Information and the ~~Division for Connectivity~~ Agency of
16 Transportation, of the current State telecommunications system and evaluation
17 of alternative proposals for upgrading the system to provide the best available
18 and affordable technology for use by government; and

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

1 (c) In developing the Plan, the Department shall take into account the State
2 telecommunications policies and goals of section 202c of this title.

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

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

1 this purpose. The Plan shall be adopted by September 1, 2014, and then
2 reviewed and updated as provided in subsection (f) of this section.

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

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

17 Sec. 4. 30 V.S.A. § 202e is added to read:

18 § 202e. TELECOMMUNICATIONS AND CONNECTIVITY

19 (a) Among other powers and duties specified in this title, the Department of
20 Public Service, through the Division for Telecommunications and
21 Connectivity, shall promote:

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

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

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

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

16 (5) the most efficient use of both public and private resources through
17 State policies by encouraging the development, **funding, and implementation**
18 **of open access** telecommunications infrastructure.

1 (b) To achieve the goals specified in subsection (a) of this section, the

2 Division shall:

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

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

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

14 (4) coordinate telecommunications initiatives among Executive Branch
15 agencies, departments, and offices;

16 (5) identify the types and locations of infrastructure and services needed
17 to carry out the goals stated in subsection (a) of this section;

18 (6) formulate, with the advice and assistance of the Telecommunications
19 and Connectivity Board and with input from the Regional Planning
20 Commissions, an action plan that conforms with the State Telecommunications

1 Plan, as updated and revised, and carries out the goals stated in subsection (a)
2 of this section:

3 (7) coordinate the agencies of the State to make public resources
4 available to support the extension of broadband and mobile
5 telecommunications infrastructure and services to all unserved and
6 underserved areas;

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

10 (9) work cooperatively with the Agency of Transportation and the
11 Department of Buildings and General Services to assist in making available
12 transportation rights-of-way and other State facilities and infrastructure for
13 telecommunications projects in conformity with applicable federal statutes and
14 regulations; and

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

17 (c)(1) The Director may request from telecommunications service
18 providers voluntary disclosure of information regarding deployment of
19 broadband, telecommunications facilities, or advanced metering infrastructure
20 that is not publicly funded. Such information may include data identifying
21 projected coverage areas, projected average speed of service, service type, and

1 the anticipated date of completion in addition to identifying the location and
2 routes of proposed cables, wires, and telecommunications facilities.

3 (2) The Director may enter into a nondisclosure agreement with respect
4 to any voluntary disclosures under this subsection, and the information
5 disclosed pursuant thereto shall remain confidential. Alternatively, entities that
6 voluntarily provide information requested under this subsection may select a
7 third party to be the recipient of such information. The third party may
8 aggregate information provided by the entities, but shall not disclose
9 provider-specific information it has received under this subsection to any
10 person, including the Director. The third party shall only disclose the
11 aggregated information to the Director. The Director may publicly disclose
12 aggregated information based upon the information provided under this
13 subsection. The confidentiality requirements of this subsection shall not affect
14 whether information provided to any agency of the State or a political
15 subdivision of the State pursuant to other laws is or is not subject to disclosure.

16 (d) The Division shall only promote the expansion of broadband services
17 that offer actual speeds that meet or exceed the minimum technical service
18 characteristic objectives contained in the State’s Telecommunications Plan.

19 (e) Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year,
20 the Director, with the advice and assistance of the Telecommunications and
21 Connectivity Board, shall submit a report of its activities pursuant to this

1 section for the preceding fiscal year to the General Assembly. Each report
2 shall include an operating and financial statement covering the Division's
3 operations during the year, including a summary of all grant awards and
4 contracts and agreements entered into by the Division, as well as the action
5 plan required under subdivision (b)(6) of this section. In addition, the report
6 shall include an accurate map and narrative description of each of the
7 following:

8 (1) the areas served and the areas not served by wireless
9 communications service, and cost estimates for providing such service to
10 unserved areas;

11 (2) the areas served and the areas not served by broadband that has a
12 download speed of at least 4 Mbps and an upload speed of at least 1 Mbps, and
13 cost estimates for providing such service to unserved areas;

14 (3) the areas served and the areas not served by broadband that has a
15 download speed of at least 25 Mbps and an upload speed of at least 3 Mbps, or
16 the FCC speed requirements established under Connect America Fund Phase
17 II, whichever is higher, and the costs for providing such service to unserved
18 areas; and

19 (4) the areas served and the areas not served by broadband that has a
20 download speed of at least 100 Mbps and is symmetrical, and the costs for
21 providing such service to unserved areas.

1 Sec. 5. 30 V.S.A. § 202f is added to read:

2 § 202f. TELECOMMUNICATIONS AND CONNECTIVITY BOARD

3 (a) There is created a Telecommunications and Connectivity Board for the
4 purpose of making recommendations to the Commissioner of Public Service
5 regarding his or her telecommunications responsibilities and duties as provided
6 in this section. The Connectivity Board shall consist of 11 members, nine
7 voting and two nonvoting, selected as follows:

8 (1) the State Treasurer or designee;

9 (2) the Secretary of Commerce and Community Development or
10 designee;

11 (3) one member of the House of Representatives appointed by the
12 Speaker of the House;

13 (4) one member of the Senate appointed by the Committee on
14 Committees of the Senate;

15 (5) five at-large members appointed by the Governor, who shall not be
16 employees or officers of the State at the time of appointment;

17 (6) the Secretary of Transportation or designee, who shall be a
18 nonvoting member; and

19 [Removed: VELCO from Board]

20 (b) A quorum of the Connectivity Board shall consist of five voting
21 members. No action of the Board shall be considered valid unless the action is

1 supported by a majority vote of the members present and voting and then only
2 if at least five members vote in favor of the action. The Governor shall select,
3 from among the at-large members, a Chair and Vice Chair, who shall not be
4 members of the General Assembly or employees or officers of the State at the
5 time of the appointment.

6 (c) In making appointments of at-large and legislative members, the
7 appointing authorities shall give consideration to citizens of the State with
8 knowledge of telecommunications technology, telecommunications regulatory
9 law, transportation rights-of-way and infrastructure, finance, environmental
10 permitting, and expertise regarding the delivery of telecommunications
11 services in rural, high-cost areas. However, the legislative and five at-large
12 members may not be persons with a financial interest in or owners or
13 employees of an enterprise that provides broadband or cellular service or that
14 is seeking in-kind or financial support from the Department of Public Service.
15 The conflict of interest provision in this subsection shall not be construed to
16 disqualify a member who has ownership in a mutual fund, exchange traded
17 fund, pension plan, or similar entity that owns shares in such enterprises as part
18 of a broadly diversified portfolio. The legislative and at-large members shall
19 serve terms of two years beginning February 1 in odd-numbered years, and
20 until their successors are appointed and qualified. However, three of the five
21 at-large members first appointed by the Governor shall serve an initial term of

1 three years. Vacancies shall be filled by the respective appointing bodies for
2 the balance of the unexpired term. A member may be reappointed for up to
3 three consecutive terms. Upon completion of a term of service for any reason,
4 including the term's expiration or a member's resignation, and for one year
5 from the date of such completion, a former Board member shall not advocate
6 before the Connectivity Board, Department of Public Service, or the Public
7 Service Board on behalf of an enterprise that provides broadband or cellular
8 service.

9 (d) Except for those members otherwise regularly employed by the State,
10 the compensation of the Board's members is that provided by 32 V.S.A.
11 § 1010(a). Legislative members are entitled to compensation for services and
12 reimbursement of expenses as provided in 2 V.S.A. § 406. All members of the
13 Board, including those members otherwise regularly employed by the State,
14 shall receive their actual and necessary expenses when away from home or
15 office upon their official duties.

16 (e) In performing its duties, the Connectivity Board may use the legal and
17 technical resources of the Department of Public Service. The Department of
18 Public Service shall provide the Board with administrative services.

19 (f) The Connectivity Board shall:

20 (1) have review and nonbinding approval authority with respect to the
21 awarding of grants under the Connectivity Initiative. The Commissioner shall

1 have sole authority to make the final decision on grant awards, as provided in
2 subsection (g) of this section.

3 (2) function in an advisory capacity to the Commissioner on the
4 development of State telecommunications policy and planning, including the
5 action plan required under subdivision 202e(b)(6) of this chapter and the State
6 Telecommunications Plan.

7 (3) participate in the development of requests for proposals under the
8 Connectivity Initiative.

9 (4) provide recommendations for the apportionment of funds to the
10 High- Cost Program and the Connectivity Initiative.

11 (5) provide recommendations on the appropriate internet access speed
12 for projects funded by the Connectivity Fund.

13
14 (g) The Commissioner shall make an initial determination as to whether a
15 proposal submitted under the Connectivity Initiative meets the criteria of the
16 request for proposals. The Commissioner shall then provide the Connectivity
17 Board a list of all eligible proposals and recommendations. The Connectivity
18 Board shall review the recommendations of the Commissioner and may review
19 any proposal submitted, as it deems necessary, and either approve or
20 disapprove each recommendation and may make new recommendations for the
21 Commissioner’s final consideration. The Commissioner shall have final

1 decision-making authority with respect to the awarding of grants under the
2 Connectivity Initiative. If the Commissioner does not accept a
3 recommendation of the Board, he or she shall provide the Board with a written
4 explanation for such decision.

5 (h) On September 15, 2015, and annually thereafter, the Commissioner
6 shall submit to the Connectivity Board an accounting of monies in the
7 Connectivity Fund and anticipated revenue for the next year. On or before
8 January 1 of each year, the Commissioner, after consulting with the
9 Connectivity Board, shall recommend to the relevant legislative committees of
10 jurisdiction a plan for apportioning such funds to the High-Cost Program and
11 the Connectivity Initiative. The Connectivity Board shall submit a
12 recommendation to the Commissioner on the appropriate internet access speed.

13 (i) The Chair shall call the first meeting of the Connectivity Board. The
14 Chair or a majority of Board members may call a Board meeting. The Board
15 may meet up to six times a year.

16 (j) At least annually, the Connectivity Board and the Commissioner or
17 designee shall jointly hold a public meeting to review and discuss the status of
18 State telecommunications policy and planning, the Telecommunications Plan,
19 the Connectivity Fund, the Connectivity Initiative, the High-Cost Program, and
20 any other matters they deem necessary to fulfill their obligations under this
21 section.

1 (k) Information and materials submitted by a telecommunications service
2 provider concerning confidential financial or proprietary information shall be
3 exempt from public inspection and copying under the Public Records Act, nor
4 shall any information that would identify a provider who has submitted a
5 proposal under the Connectivity Initiative be disclosed without the consent of
6 the provider, unless a grant award has been made to that provider. Nothing in
7 this subsection shall be construed to prohibit the publication of statistical
8 information, determinations, reports, opinions, or other information so long as
9 the data are disclosed in a form that cannot identify or be associated with a
10 particular telecommunications service provider.

11 Sec. 6. CREATION OF POSITIONS; TRANSFER OF VACANT
12 POSITIONS; REEMPLOYMENT RIGHTS; TRANSITIONAL
13 PROVISIONS

14 (a) Up to three additional exempt full-time positions are created within the
15 Division for Telecommunications and Connectivity, as deemed necessary by
16 the Secretary of Administration.

17 (b) The positions created under subsection (a) of this section shall only be
18 filled to the extent there are existing vacant positions in the Executive Branch
19 available to be transferred and converted to the new positions in the Division
20 for Telecommunications and Connectivity, as determined by the Secretary of

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

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

11 (d) Responsibility for all assets and liabilities of the Vermont
12 Telecommunications Authority (VTA) shall be transferred to the Department
13 of Public Service for use by the Division of Telecommunications and
14 Connectivity.

15 (e) The VTA shall not enter into any new contracts without the approval of
16 the Commissioner of Public Service.

17 Sec. 7. 30 V.S.A. § 7503 is amended to read:

18 § 7503. FISCAL AGENT

19 (a) A fiscal agent shall be selected to receive and distribute funds under this
20 chapter.

1 (b) The fiscal agent shall be selected by the ~~Public Service Board~~
2 Commissioner of Public Service after competitive bidding. No
3 telecommunications service provider shall be eligible to be the fiscal agent.
4 The duties of the fiscal agent shall be determined by a contract with a term not
5 greater than three years.

6 (c) In order to finance grants and other expenditures that have been
7 approved by the ~~Public Service Board~~ Commissioner of Public Service, the
8 fiscal agent may borrow money from time to time in anticipation of receipts
9 during the current fiscal year. No such note shall have a term of repayment in
10 excess of one year, but the fiscal agent may pledge its receipts in the current
11 and future years to secure repayment. Financial obligations of the fiscal agent
12 are not guaranteed by the State of Vermont.

13 (d) The fiscal agent shall be audited annually by a certified public
14 accountant in a manner determined by and under the direction of the ~~Public~~
15 Service Board Commissioner of Public Service.

16 (e) The financial accounts of the fiscal agent shall be available at
17 reasonable times to any telecommunications service provider in this State. The
18 ~~Public Service Board~~ Commissioner of Public Service may investigate the
19 accounts and practices of the fiscal agent and may enter orders concerning the
20 same.

1 (f) The fiscal agent acts as a fiduciary and holds funds in trust for the
2 ratepayers until the funds have been disbursed as provided pursuant to ~~sections~~
3 ~~7511 through 7515~~ section 7511 of this chapter.

4 **[Proposal TBD: Increase surcharge from 2 to 4 percent]**

5 Sec. 8. REPEAL (**Same effect as Sec. 8 in prior vision where language**
6 **stricken was shown. This version conforms with drafting conventions.**
7 **Sec. 9 below ensues from Sec. 8.)**

8 30 V.S.A. § 7515a (additional program support for Executive Branch
9 activities) is repealed.

10 **Sec. 9. 30 V.S.A. § 7511 is amended to read:**

11 **§ 7511. DISTRIBUTION GENERALLY**

12 (a) As directed by the ~~Public Service Board~~ Commissioner of Public
13 Service, funds collected by the fiscal agent, and interest accruing thereon, shall
14 be distributed as follows:

15 (1) to pay costs payable to the fiscal agent under its contract with the
16 Board Commissioner;

17 (2) to support the Vermont telecommunications relay service in the
18 manner provided by section 7512 of this title;

19 (3) to support the Vermont Lifeline program in the manner provided by
20 section 7513 of this title;

1 (4) to support Enhanced-911 services in the manner provided by section
2 7514 of this title; and

3 (5) to support the Connectivity Fund established in section 7516 ~~of this~~
4 ~~chapter;~~ and

5 ~~(6) to support the cost of Executive Branch activities as specified under~~
6 ~~section 7515a of this title.~~

7 (b) If insufficient funds exist to support all of the purposes contained in
8 subsection (a) of this section, the Board Commissioner shall conduct an
9 expedited proceeding to allocate the available funds, giving priority in the
10 order listed in subsection (a).

11 Sec. 10. 30 V.S.A. § 7516 is amended to read:

12 § 7516. CONNECTIVITY FUND

13 There is created a Connectivity Fund for the purpose of providing support
14 to the High-Cost Program established under section 7515 of this chapter and
15 the Connectivity Initiative established under section 7515b of this chapter.

16 The fiscal agent shall determine annually, on or before September 1, the
17 amount of monies available to the Connectivity Fund. Such funds shall be
18 apportioned equally as follows: 30 percent to the High-Cost Program and
19 70 percent to the Connectivity Initiative or as the Commissioner deems
20 appropriate ~~referenced in this section.~~

21 Sec. 11. 30 V.S.A. § 7515 is amended to read:

1 § 7515. HIGH-COST PROGRAM

2 (a) The Universal Service Charge shall be used as a means of keeping basic
3 telecommunications service affordable in all parts of this State, thereby
4 maintaining universal service, and as a means of supporting access to
5 broadband service in all parts of the State.

6 (b) The Public Service Board, after review of a petition of a company
7 holding a certificate of public good to provide telecommunications service in
8 Vermont, and upon finding that the company meets all requirements for
9 designation as an “eligible telecommunications carrier” as defined by the FCC,
10 may designate the company as a Vermont-eligible telecommunications carrier
11 (VETC).

12 (c) The ~~supported~~ services a designated VETC must provide are voice
13 telephony services, ~~as defined by the FCC,~~ and broadband Internet access,
14 directly or through an affiliate. A VETC receiving support under this section
15 shall use that support for capital improvements in high cost areas, as defined in
16 subsection (f) of this section, to build broadband capable networks.

17 (d) The Board may designate multiple VETCs for a single high cost area,
18 but each designated VETC shall:

19 (1) offer ~~supported~~ services to customers at all locations throughout the
20 ~~service~~ high cost area or areas for which it has been designated; and

1 (2) for its voice telephone services, meet service quality standards set by
2 the Board.

3 (e) A VETC shall receive support as defined in subsection (i) of this
4 section from the fiscal agent of the Vermont Universal Service Fund for each
5 telecommunications line in service or service location, whichever is greater in
6 number, in each high cost area it services. Such support may be made in the
7 form of a net payment against the carrier’s liability to the Fund. If multiple
8 VETCs are designated for a single area, then each VETC shall receive support
9 for each line it has in service.

10 (f) As used in this section, a Vermont telephone exchange is a “high cost
11 area” if the exchange is served by a rural telephone company, as defined by
12 federal law, or if the exchange is designated as a rural exchange in the
13 wholesale tariff of a regional bell operating company (RBOC), as defined by
14 the FCC, or of a successor company to an RBOC. An exchange is not a high
15 cost area if the Public Service Board finds that the supported services are
16 available to all locations throughout the exchange from at least two service
17 providers.

18 (g) Except as provided in subsection (h) of this section, a VETC shall
19 provide broadband Internet access at speeds no lower than 4 Mbps download
20 and 1 Mbps upload in each high cost area it serves within five years of
21 designation. A VETC need not provide broadband service to a location that

1 has service available from another service provider, as determined by the
2 Department of Public Service.

3 (h) The Public Service Board may modify the build out requirements of
4 subsection (d) of this section as it relates to broadband Internet access to be the
5 geographic area that could be reached using one-half of the funds to be
6 received over five years. A VETC may seek such waiver of the build out
7 requirements ~~in subsection (e)~~ within one year of designation and shall
8 demonstrate the cost of meeting broadband Internet access requirements on an
9 exchange basis and propose an alternative build out plan.

10 (i) The amount of the monthly support under this section shall be the pro
11 rata share of available funds ~~as provided in subsection (e) of this section~~ based
12 on the total number of incumbent local exchange carriers in the State and
13 reflecting each carrier's lines in service or service locations in its high-cost
14 area or areas, as determined under subsection (e) of this section. If an
15 incumbent local exchange carrier does not petition the Board for VETC
16 designation, or is found ineligible by the Board, the share of funds it otherwise
17 would have received under this section shall be used to support the
18 Connectivity Initiative established in section 7515b of this chapter.

19 (j) The Public Service Board shall adopt by rule standards and procedures
20 for ensuring projects funded under this section are not competitive overbuilds
21 of existing wired telecommunications services.

1 (k) Each VETC shall submit certification that it is meeting the
2 requirements of this section and an accounting of how it expended the funds
3 received under this section in the previous calendar year, with its annual report
4 to the Department of Public Service. For good cause shown, the Public
5 Service Board may investigate submissions required by this subsection and
6 may revoke a company's designation if it finds that the company is not
7 meeting the requirements of this subsection.

8 Sec. 12. 30 V.S.A. § 7515b is amended to read:

9 § 7515b. CONNECTIVITY INITIATIVE

10 (a) The purpose of the Connectivity Initiative is to provide each service
11 location in Vermont access to Internet service that is capable of speeds of at
12 least 4 Mbps download and 1 Mbps upload, or the FCC speed requirements
13 established under Connect America Fund Phase II, whichever is higher,
14 beginning with locations not served as of December 31, 2013 according to the
15 minimum technical service characteristic objectives applicable at that time.
16 Within this category of service locations, priority shall be given first to
17 unserved and then to underserved locations. As used in this section,
18 "unserved" means a location having access to only satellite or dial-up Internet
19 service and "underserved" means a location having access to Internet service
20 with speeds that exceed satellite and dial-up speeds but are less than 4 Mbps
21 download and 1 Mbps upload. Any new services funded in whole or in part by

1 monies ~~in this Fund~~ from this Initiative shall be capable of being continuously
2 upgraded to reflect the best available, most economically feasible service
3 capabilities.

4 (b) The Department of Public Service shall publish annually a list of census
5 blocks eligible for funding based on the Department's most recent broadband
6 mapping data. The Department annually shall solicit proposals from service
7 providers, ~~the Vermont Telecommunications Authority, and the Division for~~
8 ~~Connectivity~~ to deploy broadband to eligible census blocks. The Department
9 shall give priority to proposals that reflect the lowest cost of providing services
10 to unserved and underserved locations; however, the Department also shall
11 consider:

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

14 (2) the price to consumers of services;

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

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

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

20 (6) the objectives of the State's Telecommunications Plan.

21 **Sec. 13. 30 V.S.A. § 246(e) is added to read:**

1 (e) Notwithstanding any contrary provisions of this section, the holder of a
2 certificate of public good for a constructed meteorological station may apply
3 under section 248a of this title or 10 V.S.A. chapter 151 to convert the station
4 to a wireless telecommunications facility, provided the application is filed at
5 least 90 days before the expiration of the certificate for the station. Any such
6 application shall constitute a new application to be reviewed under the facts
7 and circumstances as they exist at the time of the review.

8 Sec. 14. STATUTORY REVISION

9 In its statutory revision capacity under 2 V.S.A. § 424, the Office of
10 Legislative Council shall, where appropriate in 30 V.S.A. chapter 88:

- 11 (1) replace the words “Public Service Board” with the words
12 “Department of Public Service”;
13 (2) replace the word “Board” with the word “Commissioner”; and
14 (3) make other similar amendments necessary to effect the purposes of
15 this act.

16 Sec. 15. EFFECTIVE DATES

17 This act shall take effect on July 1, 2015, except that **this section** and
18 Secs. 6**(e)** (Commissioner approval of all Vermont Telecommunications
19 Contracts), **13 (conversion of a meteorological station to wireless**
20 **telecommunications facility)**, and 14 (statutory revision authority) shall take
21 effect on passage.

1

2

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4 (Committee vote: _____)

5

6

Representative _____

7

FOR THE COMMITTEE