

1                                   **Code for this Draft Committee Amendment**

2                   **Yellow** – TBD by Committee; *or new language added 2/24, upon*  
3                                   *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 & 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19                   Connectivity) are repealed.

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

21                   § 1. COMPOSITION OF DEPARTMENT

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

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

20           (c) The ~~director for public advocacy~~ Directors for Public Advocacy and for  
21 Telecommunications and Connectivity may employ, with the approval of the

1 ~~commissioner~~ Commissioner, legal counsel and other experts, and clerical  
2 assistance, and the ~~directors of regulated utility planning and energy efficiency~~  
3 Directors for Regulated Utility Planning and for Energy Efficiency may  
4 employ, with the approval of the ~~commissioner~~ Commissioner, experts and  
5 clerical assistance.

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

7 § 202d. TELECOMMUNICATIONS PLAN

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

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

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

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

10           (3) an assessment of the current state of telecommunications  
11 infrastructure;

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

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

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

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

15 (e) Before adopting a Plan, the Department shall conduct public hearings  
16 on a final draft and shall consider the testimony presented at such hearings in  
17 preparing the final Plan. At least one hearing shall be held jointly with  
18 Committees of the General Assembly designated by the General Assembly for  
19 this purpose. The Plan shall be adopted by September 1, 2014, and then  
20 reviewed and updated as provided in subsection (f) of this section.

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

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

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

16 § 202e. TELECOMMUNICATIONS AND CONNECTIVITY

17 (a) Among other powers and duties specified in this title, the Department of  
18 Public Service, through the Division for Telecommunications and  
19 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 his or her designee;

9 (2) the Secretary of Commerce and Community Development or his or  
10 her 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 his or her designee, who shall be a  
18 nonvoting member; and

19 (7) a representative of the Vermont Electric Power Co., Inc. (VELCO),  
20 who shall be a nonvoting member.

1       **(b)** A quorum of the Connectivity Board shall consist of five voting  
2       members. No action of the Board shall be considered valid unless the action is  
3       supported by a majority vote of the members present and voting and then only  
4       if at least five members vote in favor of the action. The Governor shall select,  
5       from among the at-large members, a Chair and Vice Chair, who shall not be  
6       members of the General Assembly or employees or officers of the State at the  
7       time of the appointment.

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

1 until their successors are appointed and qualified. However, three of the five  
2 at-large members first appointed by the Governor shall serve an initial term of  
3 three years. Vacancies shall be filled by the respective appointing bodies for  
4 the balance of the unexpired term. A member may be reappointed for up to  
5 three consecutive terms. Upon completion of a term of service for any reason,  
6 including the term's expiration or a member's resignation, and for one year  
7 from the date of such completion, a former Board member shall not advocate  
8 before the Connectivity Board, Department of Public Service, or the Public  
9 Service Board on behalf of an enterprise that provides broadband or cellular  
10 service.

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

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

1        (f) The Connectivity Board shall have review and non-binding approval  
2        authority with respect to the awarding of grants under the Connectivity  
3        Initiative. The Commissioner shall have sole authority to make the final  
4        decision on grant awards, as provided in subsection (g) of this section. The  
5        Board shall function in an advisory capacity to the Commissioner on the  
6        development of State telecommunications policy and planning, including the  
7        action plan required under subdivision 202e(b)(6) of this chapter and the State  
8        Telecommunications Plan.

9        (g) The Commissioner shall make an initial determination as to whether a  
10       proposal submitted under the Connectivity Initiative **meets the criteria of the**  
11       **request for proposals.** The Commissioner shall then provide the Connectivity  
12       Board a list of all eligible **proposals and recommendations.** The Connectivity  
13       Board shall review the recommendations of the Commissioner and may review  
14       any **proposal submitted,** as it deems necessary, and either approve or  
15       disapprove each recommendation and may make new recommendations for the  
16       Commissioner’s final consideration. The Commissioner shall have final  
17       decision-making authority with respect to the awarding of grants under the  
18       Connectivity Initiative. If the Commissioner does not accept a  
19       recommendation of the Board, he or she shall provide the Board with a written  
20       explanation for such decision.

1       (h) On September 15, 2015, and annually thereafter, the Commissioner  
2       shall submit to the Connectivity Board an accounting of monies in the  
3       Connectivity Fund and anticipated revenue for the next year. Not later than  
4       January 1 of each year, the Commissioner, after consulting with the  
5       Connectivity Board, shall recommend to the relevant legislative committees of  
6       jurisdiction a plan for apportioning such funds to the High-Cost Program and  
7       the Connectivity Initiative.

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

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

17       (k) Information and materials submitted by a telecommunications service  
18       provider concerning confidential financial or proprietary information shall be  
19       exempt from public inspection and copying under the Public Records Act, nor  
20       shall any information that would identify a provider who has submitted a  
21       proposal under the Connectivity Initiative be disclosed without the consent of



1 the provider, unless a grant award has been made to that provider. Nothing in  
2 this subsection shall be construed to prohibit the publication of statistical  
3 information, determinations, reports, opinions, or other information so long as  
4 the data are disclosed in a form that cannot identify or be associated with a  
5 particular telecommunications service provider.

6 Sec. 6. CREATION OF POSITIONS; TRANSFER OF VACANT  
7 POSITIONS; REEMPLOYMENT RIGHTS; TRANSITIONAL  
8 PROVISIONS

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

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

18 (c) All full-time personnel of the Vermont Telecommunications Authority  
19 employed by the Authority on the day immediately preceding the effective date  
20 of this act who do not obtain a position in the Division for  
21 Telecommunications and Connectivity pursuant to subsection (a) of this

1 section shall be entitled to the same reemployment or recall rights available to  
2 nonmanagement State employees under the existing collective bargaining  
3 agreement entered into between the State and the Vermont State Employees’  
4 Association.

5 (d) Responsibility for all assets and liabilities of the Vermont  
6 Telecommunications Authority (VTA) shall be transferred to the Department  
7 of Public Service for use by the Division of Telecommunications and  
8 Connectivity.

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

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

12 § 7503. FISCAL AGENT

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

15 (b) The fiscal agent shall be selected by the ~~Public Service Board~~  
16 Commissioner of Public Service after competitive bidding. No  
17 telecommunications service provider shall be eligible to be the fiscal agent.

18 The duties of the fiscal agent shall be determined by a contract with a term not  
19 greater than three years.

20 (c) In order to finance grants and other expenditures that have been  
21 approved by the ~~Public Service Board~~ Commissioner of Public Service, the

1 fiscal agent may borrow money from time to time in anticipation of receipts  
2 during the current fiscal year. No such note shall have a term of repayment in  
3 excess of one year, but the fiscal agent may pledge its receipts in the current  
4 and future years to secure repayment. Financial obligations of the fiscal agent  
5 are not guaranteed by the State of Vermont.

6 (d) The fiscal agent shall be audited annually by a certified public  
7 accountant in a manner determined by and under the direction of the **Public**  
8 **Service Board Commissioner of Public Service.**

9 (e) The financial accounts of the fiscal agent shall be available at  
10 reasonable times to any telecommunications service provider in this State. The  
11 **Public Service Board Commissioner of Public Service** may investigate the  
12 accounts and practices of the fiscal agent and may enter orders concerning the  
13 same.

14 (f) The fiscal agent acts as a fiduciary and holds funds in trust for the  
15 ratepayers until the funds have been disbursed as provided pursuant to ~~sections~~  
16 ~~7511 through 7515~~ section 7511 of this chapter.

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

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

1        30 V.S.A. § 7515a (additional program support for Executive Branch  
2        activities) is repealed.

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

4        **§ 7511. DISTRIBUTION GENERALLY**

5        (a) As directed by the **Public Service Board Commissioner of Public**  
6        **Service**, funds collected by the fiscal agent, and interest accruing thereon, shall  
7        be distributed as follows:

8            (1) to pay costs payable to the fiscal agent under its contract with the  
9        **Board Commissioner;**

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

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

14           (4) to support Enhanced-911 services in the manner provided by section  
15        7514 of this title; **and**

16           (5) to support the Connectivity Fund established in section 7516 of this  
17        **chapter title; and**

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

20           (b) If insufficient funds exist to support all of the purposes contained in  
21        subsection (a) of this section, the **Board Commissioner** shall conduct an

1 expedited proceeding to allocate the available funds, giving priority in the  
2 order listed in subsection (a).

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

4 § 7516. CONNECTIVITY FUND

5 There is created a Connectivity Fund for the purpose of providing support  
6 to the High-Cost Program established under section 7515 of this chapter and  
7 the Connectivity Initiative established under section 7515b of this chapter.  
8 The fiscal agent shall determine annually, on or before September 1, the  
9 amount of monies available to the Connectivity Fund. Such funds shall be  
10 apportioned equally as follows: 30 percent to the High-Cost Program and 70  
11 percent to the Connectivity Initiative ~~referenced in this section.~~

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

13 § 7515. HIGH-COST PROGRAM

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

18 (b) The Public Service Board, after review of a petition of a company  
19 holding a certificate of public good to provide telecommunications service in  
20 Vermont, and upon finding that the company meets all requirements for  
21 designation as an “eligible telecommunications carrier” as defined by the FCC,

1 may designate the company as a Vermont-eligible telecommunications carrier  
2 (VETC).

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

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

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

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

14 (e) A VETC shall receive support as defined in subsection (i) of this  
15 section from the fiscal agent of the Vermont Universal Service Fund for each  
16 telecommunications line in service or service location, whichever is greater in  
17 number, in each high cost area it services. Such support may be made in the  
18 form of a net payment against the carrier's liability to the Fund. If multiple  
19 VETCs are designated for a single area, then each VETC shall receive support  
20 for each line it has in service.

1 (f) As used in this section, a Vermont telephone exchange is a “high cost  
2 area” if the exchange is served by a rural telephone company, as defined by  
3 federal law, or if the exchange is designated as a rural exchange in the  
4 wholesale tariff of a regional bell operating company (RBOC), as defined by  
5 the FCC, or of a successor company to an RBOC. An exchange is not a high  
6 cost area if the Public Service Board finds that the supported services are  
7 available to all locations throughout the exchange from at least two service  
8 providers.

9 (g) Except as provided in subsection (h) of this section, a VETC shall  
10 provide broadband Internet access at speeds meeting 4 Mbps download and  
11 1 Mbps upload in each high cost area it serves within five years of designation.  
12 A VETC need not provide broadband service to a location that has service  
13 available from another service provider, as determined by the Department of  
14 Public Service.

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

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

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

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



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

2 § 7515b. CONNECTIVITY INITIATIVE

3 (a) The purpose of the Connectivity Initiative is to provide each service  
4 location in Vermont access to Internet service that is capable of speeds of at  
5 least 4 Mbps download and 1 Mbps upload, or the FCC speed requirements  
6 established under Connect America Fund Phase II, whichever is higher,  
7 beginning with locations not served as of December 31, 2013 according to the  
8 minimum technical service characteristic objectives applicable at that time.  
9 Within this category of service locations, priority shall be given first to  
10 unserved and then to underserved locations. As used in this section,  
11 “unserved” means a location having access to only satellite or dial-up Internet  
12 service and “underserved” means a location having access to Internet service  
13 with speeds that exceed satellite and dial-up speeds but are less than 4 Mbps  
14 download and 1 Mbps upload. Any new services funded in whole or in part by  
15 monies ~~in this Fund~~ from this Initiative shall be capable of being continuously  
16 upgraded to reflect the best available, most economically feasible service  
17 capabilities.

18 (b) The Department of Public Service shall publish annually a list of census  
19 blocks eligible for funding based on the Department’s most recent broadband  
20 mapping data. The Department annually shall solicit proposals from service  
21 providers, ~~the Vermont Telecommunications Authority, and the Division for~~

1 ~~Connectivity~~ to deploy broadband to eligible census blocks. The Department  
2 shall give priority to proposals that reflect the lowest cost of providing services  
3 to unserved and underserved locations; however, the Department also shall  
4 consider:

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

7 (2) the price to consumers of services;

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

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

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

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

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

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

1       Sec. 14. STATUTORY REVISION

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

4           (1) replace the words “Public Service Board” with the words  
5       “Department of Public Service”;

6           (2) replace the word “Board” with the word “Commissioner”; and

7           (3) make other similar amendments necessary to effect the purposes of  
8       this act.

9       Sec. 15. EFFECTIVE DATE

10       This act shall take effect on July 1, 2015, except that **this section**, Sec. 6(e)  
11       (Commissioner approval of all Vermont Telecommunications Contracts), **Sec.**  
12       **13 (conversion of a meteorological station to wireless telecommunications**  
13       **facility)**, and Sec. 14 (statutory revision authority) shall take effect on passage.

14

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18       (Committee vote: \_\_\_\_\_)

19

\_\_\_\_\_

20

Representative \_\_\_\_\_

21

FOR THE COMMITTEE