

1 Sec. 1. REPEAL

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6 Connectivity) are repealed.

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

8 § 1. COMPOSITION OF DEPARTMENT

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

17 (b) The ~~commissioner of public service~~ Commissioner shall be appointed
18 by the ~~governor~~ Governor with the advice and consent of the ~~senate~~ Senate.
19 The ~~commissioner of public service~~ Commissioner shall serve for a term of
20 two years beginning on February 1 of the year in which the appointment is
21 made. The ~~commissioner~~ Commissioner shall serve at the pleasure of the

1 ~~governor Governor.~~ The ~~directors for regulated utility planning, for energy~~
2 ~~efficiency and for public advocacy Directors for Regulated Utility Planning,~~
3 ~~for Public Advocacy, and for Energy Efficiency~~ shall be appointed by the
4 ~~commissioner Commissioner.~~ The Director for Telecommunications and
5 ~~Connectivity shall be appointed by the Commissioner in consultation with the~~
6 ~~Secretary of Administration.~~

7 (c) The ~~director for public advocacy Directors for Public Advocacy and for~~
8 ~~Telecommunications and Connectivity~~ may employ, with the approval of the
9 ~~commissioner Commissioner~~, legal counsel and other experts, and clerical
10 assistance, and the ~~directors of regulated utility planning and energy efficiency~~
11 ~~Directors for Regulated Utility Planning and for Energy Efficiency~~ may
12 employ, with the approval of the ~~commissioner Commissioner~~, experts and
13 clerical assistance.

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

15 § 202d. TELECOMMUNICATIONS PLAN

16 (a) The Department of Public Service shall constitute the responsible
17 planning agency of the State for the purpose of obtaining for all consumers in
18 the State stable and predictable rates and a technologically advanced
19 telecommunications network serving all service areas in the State. The
20 Department shall be responsible for the provision of plans for meeting

1 emerging trends related to telecommunications technology, markets, financing,
2 and competition.

3 (b) The Department shall prepare a Telecommunications Plan for the State.
4 The Department of Innovation and Information, ~~the Division for Connectivity~~
5 and the Agency of Commerce and Community Development shall assist the
6 Department of Public Service in preparing the Plan. The Plan shall be for a
7 ten-year period and shall serve as a basis for State telecommunications policy.

8 Prior to preparing the Plan, the Department shall prepare:

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

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

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

20 (4) an assessment, conducted in cooperation with the Department of
21 Innovation and Information ~~and the Division for Connectivity~~, of the current

1 State telecommunications system and evaluation of alternative proposals for
2 upgrading the system to provide the best available and affordable technology
3 for use by government; 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, the Department shall take into account the State
8 telecommunications policies and goals of section 202c of this title.

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

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

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

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

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

2 **§ 202e. TELECOMMUNICATIONS AND CONNECTIVITY**

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

6 (1) access to affordable broadband service to all residences and
7 businesses in all regions of the State, to be achieved in a manner that is
8 consistent with the State Telecommunications Plan;
9 (2) universal availability of mobile telecommunication services,
10 including voice and high-speed data along roadways, and near universal
11 availability statewide;

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

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

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

5 (b) To achieve the goals specified in subsection (a) of this section, the
6 Division shall:

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

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

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

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

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

- 1 (6) formulate an action plan that conforms with the State
- 2 Telecommunications Plan and carries out the goals stated in subsection (a) of
- 3 this section;
- 4 (7) coordinate the agencies of the State to make public resources
- 5 available to support the extension of mobile telecommunications and
- 6 broadband infrastructure and services to all unserved areas;
- 7 (8) support and facilitate initiatives to extend the availability of mobile
- 8 telecommunications and broadband services, and promote development of the
- 9 infrastructure that enables the provision of these services;
- 10 (9) through the Department of Innovation and Information, aggregate
- 11 and broker access at reduced prices to services and facilities required to
- 12 provide wireless telecommunications and broadband services; and waive or
- 13 reduce State fees for access to State-owned rights-of-way in exchange for
- 14 comparable value to the State, unless payment for use is otherwise required by
- 15 federal law; and
- 16 (10) receive all technical and administrative assistance as deemed
- 17 necessary by the Director for Telecommunications and Connectivity.
- 18 (c)(1) The Director may request from telecommunications service
- 19 providers voluntary disclosure of information regarding deployment of
- 20 broadband, telecommunications facilities, or advanced metering infrastructure
- 21 that is not publicly funded. Such information may include data identifying

1 projected coverage areas, projected average speed of service, service type, and
2 the anticipated date of completion in addition to identifying the location and
3 routes of proposed cables, wires, and telecommunications facilities.

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

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

20 (e) Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year,
21 the Director shall submit a report of its activities for the preceding fiscal year

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

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

10 (2) the areas served and the areas not served by broadband that has a
11 download speed of at least 0.768 Mbps and an upload speed of at least
12 0.2 Mbps, and cost estimates for providing such service to unserved areas;

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

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

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

2 § 202f. TELECOMMUNICATIONS AND CONNECTIVITY ADVISORY

3 BOARD

4 (a) There is created a Telecommunications and Connectivity Advisory
5 Board for the purpose of making recommendations to the Commissioner of
6 Public Service regarding his or her telecommunications responsibilities and
7 duties under this title. The Advisory Board shall consist of nine members
8 selected as follows:

9 (1) the State Treasurer or his or her designee;
10 (2) the Secretary of Administration or his or her designee;
11 (3) the Secretary of Commerce and Community Development or his or
12 her designee;
13 (4) one member of the House of Representatives appointed by the
14 Speaker of the House;

15 (5) one member of the Senate appointed by the Committee on
16 Committees of the Senate; and

17 (6) four at-large members appointed by the Governor, who may not be
18 employees or officers of the State at the time of appointment.

19 (b) A quorum of the Advisory Board shall consist of five members. No
20 action of the Advisory Board shall be considered valid unless the action is
21 supported by a majority vote of the members present and voting and then only

1 if at least four members vote in favor of the action. The Governor shall select,
2 from among the at-large members, a Chair and vice chair, who may not be
3 members of the General Assembly or employees or officers of the State at the
4 time of the appointment.

5 (c) In making appointments of at-large and legislative members and the
6 Chair, the appointing authorities shall give consideration to citizens of the
7 State with knowledge of telecommunications technology, telecommunications
8 regulatory law, transportation rights-of-way and infrastructure, finance, and
9 environmental permitting. However, the legislative and five at-large members
10 may not be persons with a financial interest in or owners or employees of an
11 enterprise that provides broadband or cellular service or that is seeking in-kind
12 or financial support from the Department of Public Service. The conflict of
13 interest provision in this subsection shall not be construed to disqualify a
14 member who has ownership in a mutual fund, exchange traded fund, pension
15 plan, or similar entity that owns shares in such enterprises as part of a broadly
16 diversified portfolio. In addition, at least one at-large member shall represent
17 an area of Vermont determined by the Commissioner to be unserved by
18 broadband at the time of his or her appointment or reappointment, and at least
19 one at-large member shall represent an area of Vermont determined by the
20 Commissioner to be unserved by mobile telecommunications at the time of his
21 or her appointment or reappointment. The legislative and at-large members

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

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

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

20 (f) At least annually, the Advisory Board and the Commissioner or
21 designee shall jointly hold a public meeting to review and discuss the status of

1 State telecommunications policy and planning, the Telecommunications Plan,
2 the Connectivity Fund, the Connectivity Initiative, the High-Cost Program, and
3 any other matters they deem necessary to fulfill their obligations under this
4 section.

5 Sec. 6. CREATION OF POSITIONS; TRANSFER OF VACANT
6 POSITIONS; REEMPLOYMENT RIGHTS

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

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

16 (c) All full-time personnel of the Vermont Telecommunications Authority
17 employed by the Authority on the day immediately preceding the effective date
18 of this act who do not obtain a position in the Division for Connectivity
19 pursuant to subsection (a) of this section shall be entitled to the same
20 reemployment or recall rights available to nonmanagement State employees

1 under the existing collective bargaining agreement entered into between the
2 State and the Vermont State Employees' Association.

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

4 § 7503. FISCAL AGENT

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

7 (b) The fiscal agent shall be selected by the ~~Public Service Board~~

8 Commissioner of Public Service after competitive bidding. No
9 telecommunications service provider shall be eligible to be the fiscal agent.

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

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

19 (d) The fiscal agent shall be audited annually by a certified public
20 accountant in a manner determined by and under the direction of the Public
21 Service Board.

1 (e) The financial accounts of the fiscal agent shall be available at
2 reasonable times to any telecommunications service provider in this State. The
3 Public Service Board may investigate the accounts and practices of the fiscal
4 agent and may enter orders concerning the same.

5 (f) The fiscal agent acts as a fiduciary and holds funds in trust for the
6 ratepayers until the funds have been disbursed as provided pursuant to ~~sections~~
7 ~~7511 through 7515~~ section 7515 of this chapter.

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

9 **§ 7516. CONNECTIVITY FUND**

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

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

17 Sec. 9. 30 V.S.A. § 7515 is amended to read:

18 **§ 7515. HIGH-COST PROGRAM**

19 (a) The Universal Service Charge shall be used as a means of keeping basic
20 telecommunications service affordable in all parts of this State, thereby

1 maintaining universal service, and as a means of supporting access to
2 broadband service in all parts of the State.

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

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

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

16 (1) offer supported services to customers at all locations throughout the
17 service high cost area or areas for which it has been designated; and
18 (2) for its voice telephone services, meet service quality standards set by
19 the Board.

20 (e) A VETC shall receive support as defined in subsection (i) of this
21 section from the fiscal agent of the Vermont Universal Service Fund for each

1 telecommunications line in service or service location, whichever is greater in
2 number, in each high cost area it services. Such support may be made in the
3 form of a net payment against the carrier's liability to the Fund. If multiple
4 VETCs are designated for a single area, then each VETC shall receive support
5 for each line it has in service.

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

14 (g) Except as provided in subsection (h) of this section, a VETC shall
15 provide broadband Internet access at speeds meeting 4 Mbps download and
16 1 Mbps upload in each high cost area it serves within five years of designation.
17 A VETC need not provide broadband service to a location that has service
18 available from another service provider, as determined by the Department of
19 Public Service.

20 (h) The Public Service Board may modify the build out requirements of
21 subsection (d) of this section as it relates to broadband Internet access to be the

1 geographic area that could be reached using one-half of the funds to be
2 received over five years. A VETC may seek such waiver of the build out
3 requirements ~~in subsection (e)~~ within one year of designation and shall
4 demonstrate the cost of meeting broadband Internet access requirements on an
5 exchange basis and propose an alternative build out plan.

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

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

18 (k) Each VETC shall submit certification that it is meeting the
19 requirements of this section and an accounting of how it expended the funds
20 received under this section in the previous calendar year, with its annual report
21 to the Department of Public Service. For good cause shown, the Public

1 Service Board may investigate submissions required by this subsection and
2 may revoke a company's designation if it finds that the company is not
3 meeting the requirements of this subsection.

4 Sec. 10. 30 V.S.A. § 7515b is amended to read:

5 § 7515b. CONNECTIVITY INITIATIVE

6 (a) The purpose of the Connectivity Initiative is to provide each service
7 location in Vermont access to Internet service that is capable of speeds of at
8 least 4 Mbps download and 1 Mbps upload, or the FCC speed requirements
9 established under Connect America Fund Phase II, whichever is higher,
10 beginning with locations not served as of December 31, 2013 according to the
11 minimum technical service characteristic objectives applicable at that time.

12 Within this category of service locations, priority shall be given first to
13 unserved and then to underserved locations. As used in this section,
14 “unserved” means a location having access to only satellite or dial-up Internet
15 service and “underserved” means a location having access to Internet service
16 with speeds that exceed satellite and dial-up speeds but are less than 4 Mbps
17 download and 1 Mbps upload. Any new services funded in whole or in part by
18 monies in this Fund from this Initiative shall be capable of being continuously
19 upgraded to reflect the best available, most economically feasible service
20 capabilities.

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

- 9 (1) the proposed data transfer rates and other data transmission
10 characteristics of services that would be available to consumers;
11 (2) the price to consumers of services;
12 (3) the proposed cost to consumers of any new construction, equipment
13 installation service, or facility required to obtain service;
14 (4) whether the proposal would use the best available technology that is
15 economically feasible;
16 (5) the availability of service of comparable quality and speed; and
17 (6) the objectives of the State's Telecommunications Plan.

18 Sec. 11. EFFECTIVE DATE

19 This act shall take effect on July 1, 2015.