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H.680

Introduced by Representatives Stevens of Waterbury, Sibia of Dover, Hill of  
Wolcott, Baser of Bristol, Belaski of Windsor, Botzow of  
Pownal, Brumsted of Shelburne, Carr of Brandon, Chesnut-  
Tangerman of Middletown Springs, Christie of Hartford,  
Cina of Burlington, Colburn of Burlington, Connor of Fairfield,  
Conquest of Newbury, Copeland-Hanzas of Bradford, Dakin of  
Colchester, Donovan of Burlington, Dunn of Essex, Gannon of  
Wilmington, Gonzalez of Winooski, Haas of Rochester,  
Head of South Burlington, Houghton of Essex, Howard of  
Rutland City, Jickling of Randolph, Kitzmiller of Montpelier,  
Lanpher of Vergennes, Lucke of Hartford, McCormack of  
Burlington, Morris of Bennington, Mrowicki of Putney,  
Noyes of Wolcott, Ode of Burlington, O’Sullivan of Burlington,  
Pajala of Londonderry, Read of Fayston, Scheu of Middlebury,  
Stuart of Brattleboro, Sullivan of Dorset, Troiano of Stannard,  
Walz of Barre City, Webb of Shelburne, Weed of Enosburgh,  
and Yantachka of Charlotte

Referred to Committee on

Date:

1 Subject: Telecommunications; broadband Internet access service; consumer  
2 protection; net neutrality

3 Statement of purpose of bill as introduced: This bill proposes to establish  
4 consumer protection and net neutrality standards applicable to Internet service  
5 providers in Vermont. The standards are enforceable under Vermont's  
6 Consumer Protection Act. In addition, the bill further specifies that the  
7 standards apply to broadband Internet access service that is the subject of or  
8 pertains to: (1) pole attachments and cable line extensions; (2) wired and  
9 wireless facilities on or within State land and public highways and rights-of-  
10 way; (3) telecommunications facility siting; (4) grants or awards through  
11 programs supported by the Vermont Universal Service Fund; (5) government  
12 contracts, including Executive, Legislative, and Judicial contracts for Internet  
13 service; and (6) State telecommunications policy and planning.

14 An act relating to protecting consumers and promoting an open Internet in  
15 Vermont

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

17 \* \* \* Legislative Findings \* \* \*

18 Sec. 1. FINDINGS

19 The General Assembly finds and declares that:

1           (1) Our State has a compelling interest in preserving and promoting an  
2           open Internet in Vermont.

3           (2) As Vermont is a rural state with many geographically remote  
4           locations, broadband Internet access service is essential for supporting  
5           economic and educational opportunities, strengthening health and public safety  
6           networks, and reinforcing freedom of expression and democratic, social, and  
7           civic engagement.

8           (3) Indeed, the accessibility and quality of communications networks in  
9           Vermont, specifically broadband Internet access service, will critically impact  
10           our State’s future.

11           (4) As recognized by Congress more than 20 years ago, “[t]he Internet  
12           and other interactive computer services offer a forum for a true diversity of  
13           political discourse, unique opportunities for cultural development, and myriad  
14           avenues for intellectual activity” and “[i]ncreasingly Americans are relying on  
15           interactive media for a variety of political, educational, cultural, and  
16           entertainment services.” 47 U.S.C. § 230(a)(3) and (5).

17           (5) Most Vermonters do not have the ability to choose easily between  
18           Internet service providers (ISPs). This lack of a thriving competitive market,  
19           particularly in isolated locations, disadvantages the ability of consumers and  
20           businesses to protect their interests sufficiently.

1           (6) Without net neutrality, “ISPs will have the power to decide which  
2           websites you can access and at what speed each will load. In other words,  
3           they’ll be able to decide which companies succeed online, which voices are  
4           heard – and which are silenced.” Tim Berners-Lee, founder of the World Wide  
5           Web and Director of the World Wide Web Consortium (W3C), December 13,  
6           2017.

7           (7) The Federal Communications Commission’s (FCC’s) recent repeal  
8           of the federal net neutrality rules pursuant to its Restoring Internet Freedom  
9           Order manifests a fundamental shift in policy.

10           (8) The FCC anticipates that a “light-touch” regulatory approach under  
11           Title I of the Communications Act of 1934, rather than “utility-style”  
12           regulation under Title II, will further advance the Congressional goals of  
13           promoting broadband deployment and infrastructure investment.

14           (9) Many analysts have questioned whether the new policy of  
15           nonregulation will in fact achieve the intended results, generally. It is unlikely  
16           it will further those results in Vermont. This is because the policy does little if  
17           anything to overcome the financial challenges of bringing broadband service to  
18           hard-to-reach locations with low population density. It is more likely,  
19           however, to result in the degraded quality of Internet service.

20           (10) Therefore, the State must step in and exercise its traditional role in  
21           protecting consumers from potentially unfair and anticompetitive business

1 practices. Doing so will provide critical protections for Vermont individuals,  
2 entrepreneurs, and small businesses that do not have the financial clout to  
3 negotiate effectively with commercial providers, some of whom may provide  
4 services and content that directly compete with Vermont companies or  
5 companies with whom Vermonters do business.

6 (11) The benefits of State measures designed to protect the ability of  
7 Vermonters to have unfettered access to the Internet far outweigh the benefits  
8 of allowing ISPs to manipulate Internet traffic solely for their own  
9 pecuniary gain.

10 (12) Consistent with the FCC’s 2015 Open Internet Order, the State  
11 should enact clear, bright-line rules that protect consumers from past and  
12 future tactics that threaten the open Internet; namely, no blocking; no  
13 throttling; and no paid prioritization. In addition, and also consistent with the  
14 2015 Order, the State should establish a “no unreasonable  
15 interference/disadvantage” standard and require ISPs to provide enhanced  
16 disclosures to their consumers.

17 (13) In its most recent order, the FCC preempts states from enacting  
18 local net neutrality rules. However, it is not clear that the FCC has such  
19 preemption authority under Title I or other provisions of the Communications  
20 Act. After all, if the FCC cannot enforce its own net neutrality standards using  
21 its Title I authority, as was held in Verizon v. FCC, 740 F.3d 623 (2014), then

1 it stands to reason that it is similarly constrained from preempting state net  
2 neutrality standards.

3 (14) In addition, the FCC’s asserted preemption is further undermined  
4 by its own stated objective to restore the Federal Trade Commission (FTC) as  
5 the regulatory entity with oversight and enforcement authority over broadband  
6 Internet access service.

7 (15) As explained in the FCC’s Restoring Internet Freedom Order: “In  
8 the unlikely event that ISPs engage in conduct that harms Internet openness . . .  
9 we find that utility-style regulation is unnecessary to address such conduct.  
10 Other legal regimes – particularly antitrust law and the FTC’s authority under  
11 Section 5 of the FTC Act to prohibit unfair and deceptive practices – provide  
12 protections to consumers.” Para. 140.

13 (16) By returning regulatory authority over broadband Internet access  
14 service to the FTC, the FCC has divested itself of the authority to tell states  
15 what they can and cannot do with respect to consumer protection issues.

16 (17) At a minimum, there is ambiguity over just how much regulatory  
17 authority the FCC has retained. When there is ambiguity in the relevant  
18 statutes, courts have applied the “clear statement rule” to assessing preemption  
19 authority. Essentially, the rule prohibits a governmental agency from asserting  
20 preemption authority unless it is supported by a clear statement from Congress.

1 Here, there is no affirmative grant of Congressional preemption authority  
2 under the Communications Act.

3 (18) Under the Communications Act, states retain jurisdiction over  
4 intrastate communications. While broadband Internet access service has long  
5 been recognized as “interstate” for jurisdictional purposes, state regulation of  
6 intrastate service is only preempted to the extent:

7 (A) it is impossible or impracticable to divide some aspect of a  
8 communication into separate interstate and intrastate components; and

9 (B) the state regulation of the intrastate component interferes with  
10 valid federal rules or policies.

11 (19) Both the FCC and the federal courts have grappled with the so-  
12 called “impossibility exception” with respect to state attempts to regulate  
13 intrastate information services. Often they have concluded that the intrastate  
14 and interstate components are inseparable, and therefore state regulation is  
15 preempted.

16 (20) Nonetheless, both the FCC and the courts have acknowledged that  
17 advances in technology make prior preemption rulings temporal in nature.  
18 This is because ISPs continue to develop advanced functional capabilities,  
19 some of which may make it easier to distinguish between the intrastate and  
20 interstate components of broadband Internet access service.

1           (21) In addition, consumer protection and net neutrality standards in  
2           Vermont would not directly conflict with the FCC’s policy of nonregulation.  
3           The FCC has chosen to deregulate broadband Internet access service to  
4           promote broadband investment and deployment. As previously stated, a  
5           nonregulation policy is unlikely to advance those goals in Vermont. Whereas  
6           the State standards proposed in this act will simultaneously protect consumers  
7           from unfair and anticompetitive business practices; promote innovation and  
8           Internet usage; and, consistent with the FCC’s policy objectives, likely  
9           promote broadband investment and deployment in our State.

10           (22) What is more, the FCC’s policy of nonregulation primarily relates  
11           to common carrier economic regulations, not traditional consumer protections.  
12           When faced with a similar issue in 2004, the FCC explained that the federal  
13           policy of nonregulation for information services “refers primarily to economic,  
14           public utility-type regulation, as opposed to generally applicable commercial  
15           consumer protection statutes, or similar generally applicable state laws....”  
16           Vonage Preemption Order, 19 FCC Rcd. at 22417 n.78.

17           (23) Even under the common carrier provisions of Title II of the  
18           Communications Act, Congress specifically reserved state authority “to  
19           preserve and advance universal service, protect the public safety and welfare,  
20           ensure the continued quality of telecommunications services, and safeguard the  
21           rights of consumers.” 47 U.S.C.A. § 253(b).



1           (24) Vermont, more so than the FCC, is in the best position to decide for  
2           itself what the needs of its constituencies are and what policies best serve the  
3           public interest. Internet consumer protection and net neutrality standards are  
4           needed in Vermont. Any incidental burden on interstate commerce that results  
5           from the requirements of this act is far outweighed by the compelling interests  
6           the State is advancing here.

7           \* \* \* Internet Consumer Protection; Net Neutrality; Certificate of Net  
8                                    Neutrality Compliance \* \* \*

9           Sec. 2. 30 V.S.A. chapter 94 is added to read:

10           CHAPTER 94. INTERNET CONSUMER PROTECTION AND NET  
11                                    NEUTRALITY

12           § 8201. PURPOSE

13           The purpose of this chapter is to protect and promote the Internet as an open  
14           platform in Vermont enabling consumer choice, freedom of expression, end-  
15           user control, competition, and the freedom to innovate without permission and  
16           thereby to encourage the deployment of advanced telecommunications  
17           capability and remove barriers to infrastructure investment. It is the further  
18           purpose of this chapter to ensure that Internet service providers do not impede  
19           competition or engage in unfair or deceptive acts or practices and that they  
20           offer services on a nondiscriminatory basis.

1     § 8202. DEFINITIONS

2         As used in this chapter:

3             (1) “Broadband Internet access service” means a mass-market retail  
4             service by wire or radio in Vermont that provides the capability to transmit  
5             data to and receive data from all or substantially all Internet endpoints,  
6             including any capabilities that are incidental to and enable the operation of the  
7             communications service, but excluding dial-up Internet access service. The  
8             term also encompasses any service in Vermont that the Commission finds to be  
9             providing a functional equivalent of the service described in this subdivision,  
10            or that is used to evade the protections established in this chapter.

11            (2) “Commission” means the Vermont Public Utility Commission.

12            (3) “Department” means the Vermont Department of Public Service.

13            (4) “Edge provider” means any person in Vermont that provides any  
14            content, application, or service over the Internet and any person in Vermont  
15            that provides a device used for accessing any content, application, or service  
16            over the Internet.

17            (5) “Internet service provider” or “provider” means a business that  
18            provides broadband Internet access service to any person in Vermont.

19            (6) “Paid prioritization” means the management of an Internet service  
20            provider’s network to directly or indirectly favor some traffic over other  
21            traffic, including through the use of techniques such as traffic shaping,

1 prioritization, resource reservation, or other forms of preferential traffic  
2 management, either in exchange for consideration, monetary or otherwise,  
3 from a third party or to benefit an affiliated entity, or both.

4 (7) “Person” means a person as defined in 1 V.S.A. § 128.

5 (8) “Reasonable network management” means a practice that has a  
6 primarily technical network management justification but does not include  
7 other business practices and that is primarily used for and tailored to achieving  
8 a legitimate network management purpose, taking into account the particular  
9 network architecture and technology of the broadband Internet access service.

10 § 8203. CERTIFICATE COMPLIANCE

11 An Internet service provider shall not provide broadband Internet access  
12 service in Vermont without obtaining a certificate of net neutrality compliance  
13 from the Commission under this chapter.

14 § 8204. CERTIFICATE CRITERIA; PRACTICES PROHIBITED;

15 REQUIRED DISCLOSURES

16 A certificate of net neutrality compliance shall be granted to an Internet  
17 service provider that demonstrates and the Commission finds that the Internet  
18 service provider:

19 (1) Does not engage in any of the following practices:

1           (A) Blocking lawful content, applications, services, or nonharmful  
2           devices, subject to reasonable network management practices as determined by  
3           the Commission.

4           (B) Impairing or degrading lawful Internet traffic on the basis of  
5           Internet content, application, or service or the use of a nonharmful device,  
6           subject to reasonable network management practices as determined by the  
7           Commission.

8           (C) Engaging in paid prioritization or providing preferential  
9           treatment of some Internet traffic to any Internet customer.

10           (D) Unreasonably interfering with or unreasonably disadvantaging  
11           either a customer's ability to select, access, and use broadband Internet access  
12           service or lawful Internet content, applications, services, or devices of the  
13           customer's choice or an edge provider's ability to make lawful content,  
14           applications, services, or devices available to a customer.

15           (E) Engaging in deceptive or misleading marketing practices that  
16           misrepresent the treatment of Internet traffic or content to its customers.

17           (2) Publicly discloses accurate information regarding the network  
18           management practices, performance, and commercial terms of its broadband  
19           Internet access services sufficient to enable consumers to make informed  
20           choices regarding the purchase and use of such services and to enable  
21           entrepreneurs and other small businesses to develop, market, and maintain

1 Internet offerings. Such disclosure shall be made via a publicly available,  
2 easily accessible website or through transmittal to the Commission, who will  
3 make them available on a publicly available, easily accessible website.

4 § 8205. COMMISSION RULES

5 On or before November 15, 2018, the Commission shall adopt rules that  
6 include:

7 (1) A process by which an Internet service provider may certify to the  
8 Commission that it is providing broadband Internet access service in  
9 accordance with the consumer protection and net neutrality standards  
10 contained in this chapter.

11 (2) The form and manner of making the required disclosures under  
12 subdivision 8204(2) of this title.

13 (3) A process for designating materials filed with the Commission as  
14 confidential if they fall within an exemption to disclosure under Vermont's  
15 Public Records Act.

16 (4) Statewide consumer protection rules and guidelines that can be  
17 easily accessed by the public and that include "ground truth" testing for  
18 broadband Internet speeds to create a single objective statewide Internet speed  
19 test that permits customers to test their own broadband Internet speed and  
20 submit the results to the Commission to determine what Internet speeds

1 consumers are receiving and where Internet service providers may be blocking,  
2 impairing, or degrading Internet traffic or content.

3 (5) A complaint protocol concerning alleged violations of this chapter.  
4 The protocol shall include a process for filing, investigating, and responding to  
5 complaints in a timely manner, as well as a procedure for tracking the number  
6 and nature of complaints received and a summary of actions taken in response  
7 to each complaint, which information shall be aggregated and reported  
8 annually to the General Assembly beginning on January 1, 2019,  
9 notwithstanding 2 V.S.A. § 20(d). The protocol shall include provisions  
10 allowing the Commission or the Department, in its discretion, to request a  
11 written opinion from an outside technical organization regarding one or more  
12 issues in dispute and to allocate the reasonable expenses incurred in retaining  
13 such personnel to the provider pursuant to 30 V.S.A. § 21. A complainant  
14 shall not be required to direct a complaint to a provider prior to submitting a  
15 complaint pursuant to the complaint protocol established under this  
16 subdivision.

17 (6) Any other standards or procedures the Commission deems necessary  
18 to carry out the purpose of this chapter.

19 § 8206. ENFORCEMENT

20 A violation of this section constitutes an unfair and deceptive act in trade  
21 and commerce under 9 V.S.A. § 2453. Enforcement authority under 9 V.S.A.

1 chapter 63 shall be in addition to the Commission's and the Department's  
2 enforcement authority under this chapter and other provisions of this title.

3 \* \* \* Pole Attachments; Line Extensions \* \* \*

4 Sec. 3. 30 V.S.A. § 209(i) is amended to read:

5 (i) Pole attachments; broadband. For the purposes of Commission rules on  
6 attachments to poles owned by companies subject to regulation under this title,  
7 broadband service providers shall be considered "attaching entities" with  
8 equivalent rights to attach facilities as those provided to "attaching entities" in  
9 the rules, regardless of whether such broadband providers offer a service  
10 subject to the jurisdiction of the Commission. The Commission shall adopt  
11 rules in accordance with 3 V.S.A. chapter 25 to further implement this section.  
12 The rules shall be aimed at furthering the State's interest in ubiquitous  
13 deployment of mobile telecommunications and broadband services within the  
14 State. To that end, the rules shall specify that an entity seeking to attach  
15 facilities for the purpose of providing broadband Internet access service, as  
16 defined in subdivision 8202(5) of this title, has obtained a certificate of net  
17 neutrality compliance under chapter 94 of this title.

18 Sec. 4. 30 V.S.A. § 517 is amended to read:

19 § 517. LINE EXTENSIONS

20 (a) A company may enter into agreements under this section with  
21 government, nonprofit, or private entities, including projects authorized or

1 affiliated with the Vermont Telecommunications Authority, a municipality or  
2 fire district pursuant to 20 V.S.A. § 2601, or a regional aggregation and  
3 deployment project, to satisfy cable television line extension requirements.

4 (b) Upon petition of a company, the Commission shall modify the line  
5 extensions that a company would otherwise be required to construct if the  
6 company agrees to undertake alternative actions, including the extension of  
7 facilities that support alternative technologies for delivering broadband to  
8 users. Copies of the petition shall be filed with the Department and the  
9 Vermont Telecommunications Authority. The Commission shall approve such  
10 alternative methods of satisfying line extension requirements after notice and  
11 opportunity for hearing if it finds the petition promotes the general good of the  
12 State. In reaching its determination, the Commission shall consider whether  
13 the company's proposal:

14 (1) is consistent with the activities and initiatives of the Vermont  
15 Telecommunications Authority;

16 (2) is likely to provide broadband access to a greater number of  
17 unserved consumers than would the foregone cable television line extension  
18 requirements;

19 (3) supports the expansion of broadband services at prices and service  
20 levels comparable to those commonly available throughout the State, but not



1 less than the minimum technical service characteristics required by section  
2 8077 of this title;

3 (4) supports broadband Internet access service consistent with the  
4 consumer protection and net neutrality standards in chapter 94 of this title;

5 (5) provides a fair balancing of the benefits to the public compared to  
6 benefits realized by the company; and

7 ~~(5)~~(6) the modified line-extension obligations will not unreasonably  
8 affect the time at which customers to whom a company would otherwise be  
9 obligated to extend cable services will have access to broadband services.

10 (c) This section shall not apply to line extensions previously identified and  
11 planned for construction as of June 9, 2007.

12 (d) The Commission shall not require a company to overbuild another  
13 company, or provide cable television service to locations served by another  
14 company or to which another company is required to extend cable television  
15 service.

16 (e) Notwithstanding any other provision of this section, the Commission  
17 may require the construction of cable television line extensions when a  
18 company receives a bona fide request for service from a reasonable number of  
19 verified customers or with reasonable contributions in aid of construction from  
20 customers.

1 (f) Notwithstanding any other provision of this section, the line extension  
2 construction obligation for additional miles identified in Paragraph 41 of  
3 Comcast Communication's certificate of public good, granted by the Public  
4 Utility Commission, of September 27, 2006, may be modified only with the  
5 approval of the Commission.

6 \* \* \* State Land; Public Highways and Rights-of-Way \* \* \*

7 Sec. 5. 30 V.S.A. § 227b is amended to read:

8 § 227b. ~~WIRELESS TELECOMMUNICATIONS; STATE LAND; PUBLIC~~  
9 HIGHWAYS AND RIGHTS-OF-WAY

10 (a)(1) The Secretary of Administration is designated as the exclusive agent  
11 for the State of Vermont to contract for the use of State-owned buildings,  
12 structures, and land for wireless, two-way interactive telecommunications  
13 facilities. The Secretary is granted the power to contract or grant a lease or  
14 license of up to 25 years for such buildings, structures, and land for such  
15 purposes. The provisions of this section shall apply to all State-owned  
16 buildings, structures, and land, including such property owned or managed by  
17 the Department of Buildings and General Services, the Agency of  
18 Transportation, the Department of Public Safety, and the Agency of Natural  
19 Resources.

20 (2) The Secretary is granted all powers necessary to carry out his or her  
21 responsibilities under this section. Notwithstanding any other provision of

1 law, the powers granted to the Secretary under this section relating to wireless  
2 telecommunications facilities shall supersede the authority granted to any other  
3 State official or agency relating to such facilities. The powers granted by this  
4 section shall not affect the Secretary's duty, and any duty of the facility owner,  
5 to seek and obtain any applicable gubernatorial, quasi-judicial, or legislative  
6 review, approval, or permit required by law, including as necessary permits  
7 under 10 V.S.A. chapter 151 (Act 250), local planning and zoning permits, a  
8 certificate of public good under section 248a of this title, and legislative  
9 approval under 29 V.S.A. § 166 (sale or long-term lease of State lands),  
10 10 V.S.A. § 2606 (exchange or lease of State forests and parks), or 10 V.S.A.  
11 § 2606a (State-owned mountaintop use as communications sites). A decision  
12 by the Secretary to contract or enter into or renew a lease or license for the use  
13 of a State-owned building, structure, or land for a wireless telecommunications  
14 facility shall have no presumptive or binding effect with respect to the  
15 facility's compliance with the standards or criteria used in determining whether  
16 to grant any such required approval or permit.

17 (3) The Secretary shall consult with all affected State officials and  
18 agencies concerning each proposed use of State properties for wireless  
19 telecommunications facilities to determine the compatibility of the particular  
20 building, structure, or parcel of land to accommodate such facilities, and to  
21 determine and give due consideration to the compatibility of the proposed use

1 with the approved long-term management plan for the property under  
2 consideration, but the approval of such officials or agencies is not required for  
3 the Secretary to exercise his or her powers under this section. In the case of  
4 lands managed by the Agency of Natural Resources, the Secretary shall  
5 determine that the use is consistent with any management plan to which the  
6 lands are subject.

7 (b) The Secretary of Administration shall develop a standard contract and a  
8 standard contracting procedure for the use of State-owned buildings and land  
9 for wireless telecommunications facilities. The contract and contracting  
10 procedure shall provide for:

11 (1) ~~criteria~~ Criteria and procedures for making a wireless facility  
12 development proposal;

13 (2) ~~final~~ Final consideration of each completed facility development  
14 proposal within 60 days of the proposal's submission in the manner prescribed  
15 by the Secretary;

16 (3) ~~appropriate~~ Appropriate public benefits as compensation for the use  
17 of State properties, including public use of increased telecommunications  
18 capacity, direct compensation, or other public benefits;

19 (4) ~~in~~ In the event that a wireless telecommunications facility is  
20 abandoned, the restoration of the site to a natural state within 12 months  
21 following abandonment. For the purpose of this subdivision, "natural state"

1 does not require the removal of equipment and material buried more than  
2 12 inches below natural grade if the equipment and material do not constitute  
3 hazardous material as defined under 10 V.S.A. § 6602(16), and the Secretary  
4 concludes that in the context of a particular site, removal of such equipment  
5 and material is not necessary to satisfy the purposes of this subsection.

6 Nothing in this subdivision shall constitute authority to dispose of or bury  
7 waste or other material in contradiction of applicable law;.

8 (5) ~~encouragement~~ Encouragement of competition in wireless  
9 telecommunications, including requirements for open access for competing  
10 providers;.

11 (6) ~~encouragement~~ Encouragement of the use of advanced technology,  
12 and the collocation of facilities whenever feasible, in order that the number of  
13 wireless telecommunications facilities can be minimized or reduced;.

14 (7) ~~terms~~ Terms and conditions requiring certification by the owners of  
15 wireless telecommunications facilities on State-owned buildings, structures, or  
16 land that such facilities have been installed, operated, and maintained in  
17 accordance with applicable federal and State safety standards; ~~and~~.

18 (8) ~~the~~ The retaining of a portion of revenues accruing from the lease of  
19 State-owned buildings, structures, or lands, as determined by the Secretary of  
20 Administration, by departments with management responsibility for such

1 buildings, structures, or lands in order to cover operating and maintenance  
2 costs associated with two-way, interactive telecommunications facilities.

3 (9) Terms and conditions requiring Internet service providers to obtain a  
4 certificate of net neutrality compliance under chapter 94 of this title if they use  
5 wireless telecommunications facilities on State-owned buildings, structures, or  
6 land to provide broadband Internet access service, as defined in subdivision  
7 8201(1) of this title.

8 ~~(c) By January 15, 2012, and by January 15 in the next succeeding three~~  
9 ~~years, the Secretary of Administration shall report to the Chairs of the House~~  
10 ~~Committee on Commerce and Economic Development and the Senate~~  
11 ~~Committee on Finance concerning the Secretary's activities under this section.~~

12 ~~(d)~~ In the event of a conflict between the provisions of this section and any  
13 other provision of law relating to the use of State-owned buildings, structures,  
14 and land, including the provisions of 29 V.S.A. § 165, and 19 V.S.A. § 26a, the  
15 provisions of this section shall control.

16 (d) The Secretary of Administration, in consultation with the  
17 Commissioner of Public Service, the Secretary of Transportation, and the  
18 Vermont League of Cities and Towns, shall adopt rules requiring Internet  
19 service providers that use facilities within public highways and rights-of-way  
20 for the purpose of providing wired broadband Internet access service, as

1 defined in subdivision 8202(1) of this title, to obtain a certificate of net  
2 neutrality compliance under chapter 94 of this title.

3 \* \* \* Telecommunications Facility Siting; 248a \* \* \*

4 Sec. 6. 30 V.S.A. § 248a is amended to read:

5 § 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS

6 FACILITIES

7 (a) Certificate. Notwithstanding any other provision of law, if the applicant  
8 seeks approval for the construction or installation of telecommunications  
9 facilities that are to be interconnected with other telecommunications facilities  
10 proposed or already in existence, the applicant may obtain a certificate of  
11 public good issued by the Public Utility Commission under this section, which  
12 the Commission may grant if it finds that the facilities will promote the general  
13 good of the State consistent with subsection 202c(b) of this title.

14 (1) If the applicant intends to use the proposed facility for the provision  
15 of broadband Internet access service as defined in subdivision 8202(1) of this  
16 title, then the applicant may apply for a certificate of public good under this  
17 section only if the applicant has agreed to obtain and has received a certificate  
18 of net neutrality compliance under chapter 94 of this title.

1           (2) A single application may seek approval of one or more  
2       telecommunications facilities.

3           (3) An application under this section shall include a copy of each other  
4       State and local permit, certificate, or approval that has been issued for the  
5       facility under a statute, ordinance, or bylaw pertaining to the environment or  
6       land use.

7                                       \* \* \*

8       Sec. 7. PURPOSE OF SEC. 6

9           (a) 30 V.S.A. § 248a provides an option (the Section 248a option) under  
10       which an applicant may obtain from the Public Utility Commission a  
11       certificate of public good for a telecommunications facility in lieu of obtaining  
12       a permit under 10 V.S.A. chapter 151 (Act 250) and, if applicable, local land  
13       use bylaws adopted under 24 V.S.A. chapter 117 and local ordinances adopted  
14       under 24 V.S.A. § 2291 or by municipal charter.

15           (b) The purpose of Sec. 6 of this act is to allow the Section 248a option to  
16       remain for a broadband service provider only if it agrees to obtain a certificate  
17       of net neutrality. In the absence of such agreement, the provider may still seek  
18       approval for a telecommunications facility under Act 250 and, if applicable,  
19       local bylaw or ordinance.



1                                   \* \* \* Vermont Universal Service Fund \* \* \*

2           Sec. 8. 30 V.S.A. § 7511 is amended to read:

3           § 7511. DISTRIBUTION GENERALLY

4           (a)(1) As directed by the Commissioner of Public Service, funds collected  
5           by the fiscal agent, and interest accruing thereon, shall be distributed as  
6           follows:

7                           (A) to pay costs payable to the fiscal agent under its contract with the  
8           Commissioner;

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

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

13                          (D) to support Enhanced 911 services in the manner provided by  
14           section 7514 of this title; and

15                          (E) to support the Connectivity Fund established in section 7516 of  
16           this title; and

17                          (2) for fiscal year 2016 only, any personnel or administrative costs  
18           associated with the Connectivity Initiative shall come from the Connectivity  
19           Fund, as determined by the Commissioner in consultation with the  
20           Connectivity Board.

1 (b) If insufficient funds exist to support all of the purposes contained in  
2 subsection (a) of this section, the Commissioner shall allocate the available  
3 funds, giving priority in the order listed in subsection (a).

4 (c) Notwithstanding any other provision of law to the contrary, funds to  
5 support broadband Internet access service, as defined in subdivision 8202(1) of  
6 this title, in whole or in part, shall only be distributed to Internet service  
7 providers who have obtained a certificate of net neutrality compliance under  
8 chapter 94 of this title.

9 \* \* \* Government Contracts: Executive; Legislative; Judicial \* \* \*

10 Sec. 9. 3 V.S.A. § 348 is added to read

11 § 348. STATE CONTRACTING; INTERNET SERVICE

12 The Secretary of Administration shall include in Administrative Bulletin 3.5  
13 a requirement that State procurement contracts for broadband Internet access  
14 service, as defined in 30 V.S.A. § 8202(1), include terms and conditions  
15 requiring that the Internet service provider obtain a certificate of net neutrality  
16 compliance under 30 V.S.A. chapter 94.

17 Sec. 10. 22 V.S.A. § 901 is amended to read:

18 § 901. ~~DEPARTMENT OF INFORMATION AND INNOVATION~~

19 AGENCY OF DIGITAL SERVICES

1 (a) ~~The Department of Information and Innovation~~ Agency of Digital  
2 Services, created in 3 V.S.A. § 2283b, shall have all the responsibilities  
3 assigned to it by law, including the following:

4 \* \* \*

5 (15) To ensure that any State government contract for broadband  
6 Internet access service, as defined in 30 V.S.A. § 8202(1), contains terms and  
7 conditions requiring that the Internet service provider obtain a certificate of net  
8 neutrality compliance under 30 V.S.A. chapter 94.

9 (b) As used in this section, “State government” means the agencies of the  
10 Executive Branch of State government.

11 Sec. 11. 2 V.S.A. § 754 is added to read:

12 § 754. CONTRACTS FOR INTERNET SERVICE

13 The Legislative Information Technology Committee shall ensure that any  
14 contract for broadband Internet access service, as defined in 30 V.S.A.  
15 § 8202(1), for the Legislative Branch include terms and conditions requiring  
16 that the Internet service provider obtain a certificate of net neutrality  
17 compliance under 30 V.S.A. chapter 94.

18 Sec. 12. 4 V.S.A. § 27a is added to read:

19 § 27a. CONTRACTS FOR INTERNET SERVICE

20 Every contract to provide broadband Internet access service, as defined in  
21 30 V.S.A. § 8202(1), for the Judicial Branch shall include terms and conditions

1 requiring that the Internet service provider obtain a certificate of net neutrality  
2 compliance under 30 V.S.A. chapter 94.

3 \* \* \* State Telecommunications Policy and Planning \* \* \*

4 Sec. 13. 30 V.S.A. § 202c is amended to read:

5 § 202c. STATE TELECOMMUNICATIONS; POLICY AND PLANNING

6 (a) The General Assembly finds that advances in telecommunications  
7 technology and changes in federal regulatory policy are rapidly reshaping  
8 telecommunications services, thereby promising the people and businesses of  
9 the State communication and access to information, while creating new  
10 challenges for maintaining a robust, modern telecommunications network in  
11 Vermont.

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

15 (1) strengthen the State's role in telecommunications planning;

16 (2) support the universal availability of appropriate infrastructure and  
17 affordable services for transmitting voice and high-speed data;

18 (3) support the availability of modern mobile wireless  
19 telecommunications services along the State's travel corridors and in the  
20 State's communities;

1           (4) provide for high-quality, reliable telecommunications services for  
2 Vermont businesses and residents;

3           (5) provide the benefits of future advances in telecommunications  
4 technologies to Vermont residents and businesses;

5           (6) support competitive choice for consumers among  
6 telecommunications service providers and promote open access among  
7 competitive service providers on nondiscriminatory terms to networks over  
8 which broadband and telecommunications services are delivered;

9           (7) support the application of telecommunications technology to  
10 maintain and improve governmental and public services, public safety, and the  
11 economic development of the State;

12           (8) support deployment of broadband infrastructure that:

13                 (A) uses the best commercially available technology;

14                 (B) does not negatively affect the ability of Vermont to take  
15 advantage of future improvements in broadband technology or result in  
16 widespread installation of technology that becomes outmoded within a short  
17 period after installation;

18           (9) in the deployment of broadband infrastructure, encourage the use of  
19 existing facilities, such as existing utility poles and corridors and other  
20 structures, in preference to the construction of new facilities or the replacement  
21 of existing structures with taller structures; ~~and~~

1           (10) support consumer protection and net neutrality standards applicable  
2 to broadband Internet access services, as defined in subdivision 8202(1) of  
3 this title; and

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

8   \* \* \* Severability \* \* \*

9           Sec. 14. SEVERABILITY OF PROVISIONS

10           The provisions of this act are severable. If any provision of this act is  
11 invalid, or if any application thereof to any person or circumstance is invalid,  
12 the invalidity shall not affect other provisions or applications that can be given  
13 effect without the invalid provision or application.

14   \* \* \* Effective Date \* \* \*

15           Sec. 15. EFFECTIVE DATE

16           This act shall take effect on November 15, 2018, except that this section and  
17 in Sec. 2, 30 V.S.A. § 8205 shall take effect on passage so that the Public  
18 Utility Commission can commence the rulemaking process required by that  
19 section.