

H.513 – An Act Relating to Broadband Deployment Throughout Vermont

Section by Section Summary and Comparison

Legislative Council – May 17, 2019

	As Passed the House	As Passed the Senate
Section	Summary	Summary
Sec. 1	Legislative Findings (There are 10 findings. Only the first finding is summarized here.) <ul style="list-style-type: none"> • 7 percent of VT addresses do not have access to 4/1 Mbps • 20 percent of VT addresses do not have access to 10/1 Mbps • 27 percent of VT addresses do not have access to 25/3 Mbps 	Same
Secs. 2–3	Vermont Universal Service Fund – Rate of Charge Increase <ul style="list-style-type: none"> • Increases the rate by 0.5% (current rate is 2%) • Raises approximately \$1.5M annually • Money transferred to the Connectivity Fund <ul style="list-style-type: none"> ○ Up to \$120K set aside annually for a Rural Broadband Technical Assistance Specialist within DPS (see also Sec. 21) ○ Remaining amount allocated as follows (per statute): <ul style="list-style-type: none"> ▪ 45% High-Cost Program ▪ 55% Connectivity Initiative 	Rate increase is 0.4%, which raises \$1.2M <ul style="list-style-type: none"> • Same \$120K set aside for new position, but remaining amount goes to Connectivity Initiative only, not the High-cost Program
Sec. 4	High-Cost Program <ul style="list-style-type: none"> • This is an existing program that uses State universal service funds to subsidize voice and broadband buildout in high-cost areas • The proposed amendment would increase the eligibility broadband speed requirement from at least 4/1 Mbps to at least 25/3 Mbps 	Same
Sec. 5	Connectivity Initiative	Same

	<ul style="list-style-type: none"> • This is an existing program that uses State universal service funds to award grants to ISPs for broadband buildout in unserved and underserved areas • The proposed amendment would increase the eligibility broadband speed requirement from 10/1 Mbps to 25/3 Mbps. Speed remains statutorily indexed to the FCC CAF Phase II speed requirements (currently 10/1 Mbps), whichever is higher. 	
Secs. 6–7	<p>Vermont Universal Service Fund – Prepaid Wireless Telecom Service</p> <ul style="list-style-type: none"> • Current law requires prepaid wireless providers to remit to the VUSF fiscal agent 2% of retail prepaid wireless telecommunications service in VT, based on a PUC formula • The proposed amendment would impose the Charge on prepaid wireless service at the point of sale • Commissioner of Taxes establishes registration and payment procedures consistent with sales tax procedures • New payment structure begins January 1, 2020 • The federal “Wireless Telecommunications Tax and Fee Collection Fairness Act,” enacted last year, likely preempts VT’s existing contribution method 	Same
Sec. 8	<p>FY 2019 one-time General Fund transfer of \$955K to the Connectivity Fund to be allocated as follows:</p> <ul style="list-style-type: none"> • \$700K to fund grants through a new Broadband Innovation Grant Program (see Sec. 10) • \$205K to fund grants through the existing Connectivity Initiative • \$50K to DPS to assess the feasibility of providing broadband service using electric utility infrastructure (see Sec. 11) 	Same but FY 2020
Sec. 9	<p>FY 2019 one-time 45K General Fund appropriation to the ThinkVermont Innovation Initiative established in 2018 within ACCD to support small business</p>	Same but FY 2020

	growth. Purpose is to fund technical assistance grants to municipalities planning broadband projects.	
Sec. 10	<p>Establishes the Broadband Innovation Grant Program within DPS</p> <ul style="list-style-type: none"> • Purpose is to fund feasibility studies related to broadband deployment in rural unserved and underserved areas • Eligible applicants include munis, nonprofits, co-ops, and for-profits • Conditions include: <ul style="list-style-type: none"> ○ Speeds of at least 25/3 Mbps ○ Must produce an actionable business plan ○ A grant may not exceed \$60K ○ Up to 2 electric distribution utilities may receive a grant • DPS must report annually to legislative committees on study findings and recommendations 	Under Program conditions, specifies that the Commissioner shall give preference to feasibility studies that contemplate the provision of broadband service that is symmetrical. This replaces the House-proposed minimum speed requirement of 25/3 Mbps.
Sec. 11	Requires DPS to study the feasibility of electric companies providing broadband using electric infrastructure. Report to legislative committees due on or before January 1, 2020.	Essentially same. Allows Commissioner to consider differences among electric companies and consult with each one individually.
Sec. 12	Removes prohibition on electric co-ops receiving financing from the Rural Utilities Service for nonelectric activities.	Same
Sec. 13	Allows municipalities to enter into a public-private partnership with an ISP that would be authorized to own, operate, or manage a communications plant financed in whole or in part with municipal revenue bonds. The private ISP must guarantee the bond and shall be responsible for debt service.	<ul style="list-style-type: none"> • Specifies that under a public-private partnership authorized by this section, a municipality may maintain ownership of the communications plant and contract with a private ISP to operate and manage the plant • Only allows co-ownership • Takes out requirement that ISP guarantee the bond, but keeps requirement that owner, or owners, as applicable are responsible for debt service

Sec. 14	Requires the Secretary of Administration, in collaboration with the State Treasurer and the Executive Director of the Vermont Municipal Bond Bank, to make a recommendation regarding the use of general obligation bonds by a municipality to finance capital improvements related to the operation of a communications plant. Report to legislative committees due on or before December 1, 2019.	Same
Sec. 15 (See also Secs. 16, 17, and 18)	<p>Establishes the Broadband Expansion Loan Program within VEDA</p> <ul style="list-style-type: none"> • Loans for start-up and expansion enabling ISPs to offer broadband to unserved and underserved locations • VEDA policies shall specify: <ul style="list-style-type: none"> ○ A loan shall not exceed 90% of project costs ○ Maximum loan is \$1.8M <ul style="list-style-type: none"> ▪ \$1.8M plus borrower's 10% of project costs (\$200K means up to \$2M total for each project [\$12M for 6 projects]) ○ Eligible borrowers include munis, nonprofits, co-ops, and for-profits ○ Interest and principal may be deferred for up to 2 years • Maximum total loan amount for the Program is \$10.8M <ul style="list-style-type: none"> ○ State share is <i>about</i> 75% of that amount - \$8.5M ○ VEDA share is <i>about</i> 25% of that amount - \$3M ○ (The actual State share will depend on the amount, if any, of annual appropriations.) • Projects must provide speeds of at least 25/3 Mbps to all customers • For an area to be eligible for financing under the Program: <ul style="list-style-type: none"> ○ At least 33% of potential customers have access to less than 10/1 Mbps ○ At least 10% of potential customers have access to less than 4/1 Mbps 	<ul style="list-style-type: none"> • Increases the maximum loan amount to \$4M • Projects must provide speeds of at least 100 Mbps symmetrical • Removes the percentages for unserved and underserved areas, and only requires that VEDA consult with DPS to prioritize services to unserved and underserved areas.

Sec. 16	<p>FY 2019 one-time \$540K General Fund appropriation to VEDA to serve as loan loss reserves for the Broadband Expansion Loan Program.</p> <ul style="list-style-type: none"> ○ This presumes the Authority will lend half of its total loan amount – \$5.4M (i.e., half of \$10.8M) ○ 10% of \$5.4M is \$540K ○ 10% is a much higher loan loss rate than VEDA’s historic loan loss rate, which is 0.88%. This reflects the potentially higher-risk nature of these loans. 	Same but FY 2020
Secs. 17–18	<p>State Bonding Authority</p> <ul style="list-style-type: none"> ● Increases VEDA’s moral obligation bonding authority from \$175M to \$181M ● Decreases the VTA’s moral obligation bonding authority from \$40M to \$34M 	Same
Secs. 19–20	<p>Pertains to Pole Attachments</p> <ul style="list-style-type: none"> ● Requires PUC to revise its pole-attachment rule to include the following: <ul style="list-style-type: none"> ○ one-touch make-ready policies; ○ measures designed to minimize delays and costs and promote fair and reasonable rates and the rapid resolution of disputes; and ○ specifications regarding when a make-ready completion period commences and ends. ● The final proposed rule must be filed with LCAR on or before December 1, 2019. ● By statute (no rulemaking), requires the existing PUC pole-attachment rule to specify the following: <ul style="list-style-type: none"> ○ A make-ready completion period may not be extended solely because a pole is jointly owned 	<p>In Sec. 19, concerning revisions to the existing pole-attachment rule:</p> <ul style="list-style-type: none"> ● Specifies that OTMR applies “in the communications space,” and requires the PUC to consider measures relating to timely completion of pole replacements and a possible “interest” penalty for untimely work ● Requires the PUC to complete its existing rulemaking proceeding on pole rental rates and file a final proposed rule with LCAR on or before June 1, 2020 <p>In Sec. 20, concerning statutory changes to the existing pole-attachment rule:</p> <ul style="list-style-type: none"> ● Specifies that any refund due an attaching entity for untimely make-ready work shall be made within 30 days of the expiration of the make-ready completion period

	<ul style="list-style-type: none"> ○ If a pole is jointly owned, joint owners must notify applicant which owner is responsible for timely completion of the make-ready process ○ Allows attaching entity to hire a qualified contractor to complete make-ready work not finished within the completion period ○ Requires pole owners and attaching entities to submit a list of qualified contractors to the PUC 	
Sec. 20a (Senate)		Statement of legislative intent regarding Secs. 19 and 20, clarifying that the revisions to the pole-attachment rules shall not be construed to endorse a particular generation of communications technology, be it wired or wireless. They are intended to clarify the terms and conditions of pole attachments, in general, and provide greater transparency and certainty to facilitate mobile telecommunications and broadband service in VT.
Sec. 21	Authorizes one, new classified position, a Rural Broadband Technical Assistance Specialist, to be established within DPS in FY 2020. Funded through the Connectivity Fund.	Same
Sec. 22 (Senate Sec. 28)	Effective on passage, except that Sec. 6 (repeal of prepaid wireless provider charge) shall take effect on January 1, 2020.	Same, but renumbered to Sec. 28
Secs. 22 and 23 (Senate)		Concerning the State's 10-year Telecommunications Plan: <ul style="list-style-type: none"> ● Includes additional data and analysis to be included in the Plan ● Amends plan adoption process to include a preliminary draft, then a final draft, with opportunities for public comment on both ● Requires 4 public hearings on the final draft ● Requires that a new plan be adopted every 3 years ● Adoption schedule specifies that, regardless of when the 2017 Plan is adopted, the next Plan shall be adopted on or before December 1, 2020

		<ul style="list-style-type: none"> • Authorizes the Commissioner to submit a report and proposal if it becomes apparent that additional time or resources are needed to complete the Plan as statutorily required
Sec. 24 (Senate)		Requires the Commissioner of Health to prepare a report on the possible health consequences from exposure to the radio frequency fields produced by wireless technologies, including cell phones and transmitters. The report shall include a summary of available scientific data as well as a comparison of various emissions standards and guidelines. Report is due on or before January 1, 2020. Includes a statement specifying that the purpose of the report is to provide policymakers and the general public information deemed significant by many Vermonters. It is not intended that the information gathered in the report be used to form the basis of policies that are inconsistent with federal law.
Sec. 25 (Senate)		Requires the E-911 Board to adopt a rule establishing protocols for the Board to obtain or be apprised of outages applicable to wireless service providers, VoIP providers and electric companies that impact 911 service availability during such outages.
Sec. 26 (Senate)		Requires the PUC to complete its pending workshop on backup-power obligations applicable to providers of VoIP service (i.e. “facilities-based fixed, residential voice services that are not line-powered”) and to report its findings and recommendations to the General Assembly related to: <ul style="list-style-type: none"> • Compliance with the 2015 FCC rule on backup-power requirements • Consumer education and community outreach • Technical and financial assistance to consumers and communities • Cost-effective and technologically efficient ways to provide information and assistance • Ongoing monitoring of provider compliance with backup-power obligations

<p>Sec. 27 (Senate)</p>		<p>Establishes a PEG Access Study Committee to study changes in law, market trends, and funding issues that have an affect on PEG access channels and to report back to the relevant legislative standing committees its findings and recommendations in the form of draft legislation on or before November 15, 2019.</p>
<p>Secs. 27a and 27b (Senate)</p>		<ul style="list-style-type: none"> • Authorizes the Commissioner of Public Service to spend up to \$100K for contractual services to provide resources and technical assistance to municipalities seeking to acquire or use State-owned, 2G microcells for the purpose of providing emergency communications in areas that otherwise would not have access to mobile wireless E-911 service • Authorizes the Commissioner to provide financial assistance to munis for capital costs associated with the acquisition and installation of the microcells. Specifies that muni is responsible for operational costs and must make the microcell operational in a reasonable period of time • Permits munis to use funds generated by the taxing or assessment power for the limited purpose of paying costs related to the operation of the microcells • Provides that funding for this section comes from last year's \$900K capital appropriation • Sec. 27b is the amendment to last session's capital bill, authorizing the funding
<p>Sec. 28 (Senate)</p>	<p>Same</p>	<p>Effective on passage, except that Sec. 6 (repeal of prepaid wireless provider charge) shall take effect on January 1, 2020.</p>

