

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 513
3 entitled “An act relating to broadband deployment throughout Vermont”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

7 * * * Legislative Findings * * *

8 Sec. 1. FINDINGS

9 The General Assembly finds that:

10 (1) Department of Public Service data indicates that seven percent of
11 Vermont addresses do not have access to the most basic high-speed Internet
12 access, which is 4 Mbps download and 1 Mbps upload. Nearly 20 percent of
13 Vermont addresses lack access to modern Internet speeds of 10 Mbps
14 download and 1 Mbps upload. The Federal Communications Commission
15 (FCC) defines broadband as a minimum of 25 Mbps download and 3 Mbps
16 upload. Approximately 27 percent of Vermont addresses lack access to this
17 level of service.

18 (2) As Vermont is a rural state with many geographically remote
19 locations, broadband is essential for supporting economic and educational
20 activities, strengthening health and public safety networks, and reinforcing
21 freedom of expression and democratic, social, and civic engagement.

1 (3) The accessibility and quality of communications networks in
2 Vermont, specifically broadband, is critical to our State’s future.

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

7 (5) The FCC’s regulatory approach is unlikely to achieve the intended
8 results in Vermont. The policy does little, if anything, to overcome the
9 financial challenges of bringing broadband service to hard-to-reach locations
10 with low population density. However, it may result in degraded broadband
11 quality of service. The State has a compelling interest in preserving and
12 protecting consumer access to high quality broadband service.

13 (6) Reaching the last mile will require a grassroots approach that is
14 founded on input from and support of local communities, whose residents are
15 best situated to decide which broadband solution fits their needs. By
16 developing a toolkit that encompasses numerous innovative approaches to
17 achieving successful broadband buildout and by investing in programs and
18 personnel that can provide local communities with much-needed resources and
19 technical assistance, the State can facilitate and support community efforts to
20 design and implement broadband solutions.

1 (7) Existing Internet service providers are not providing adequate
2 service to many rural areas where fewer potential customers reduce the
3 profitability necessary to justify system expansion.

4 (8) Multiple communities have attempted to implement their own
5 unique solutions outside of traditional delivery methods but have been
6 hampered by a lack of access to capital. Existing broadband grant programs do
7 not offer the scale to solve this problem, and banks and investors typically shy
8 away from start-up businesses with limited revenue history and little equity or
9 collateral.

10 (9) Community broadband solutions may mean either partnering with a
11 new business that must design and build a network or with an established
12 Internet service provider, which is followed by a 12- to 24-month process of
13 initial customer acquisition.

14 (10) A growing challenge is the isolation that may result from increased
15 reliance on the Internet and online communities. In rural settings, the physical
16 and psychological draw into isolation is much greater simply as a result of
17 limited chances for interaction with neighbors and community members. As
18 we expand our access and reliance on the Internet, we need to be intentional in
19 supporting our rural communities and town centers.

1 * * * VUSF; Rate Increase; Connectivity Fund; Specialist * * *

2 Sec. 2. 30 V.S.A. § 7523 is amended to read:

3 § 7523. RATE OF CHARGE

4 (a) Beginning on July 1, 2014, the rate of charge shall be two percent of
5 retail telecommunications service.

6 (b) Beginning on July 1, 2019, the rate of charge established under
7 subsection (a) of this section shall be increased by three-tenths of one percent
8 of retail telecommunications service, and the monies collected from this
9 increase shall be transferred to the Connectivity Fund established under section
10 7516 of this title.

11 (c) Universal Service Charges imposed and collected by the fiscal agent
12 under this subchapter shall not be transferred to any other fund or used to
13 support the cost of any activity other than in the manner authorized by this
14 section and section 7511 of this title.

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

16 § 7516. CONNECTIVITY FUND

17 (a) There is created a Connectivity Fund for the purpose of providing
18 support to the High-Cost Program established under section 7515 of this
19 chapter and the Connectivity Initiative established under section 7515b of this
20 chapter. The fiscal agent shall determine annually, on or before September 1,
21 the amount of monies available to the Connectivity Fund. Such funds shall be

1 apportioned as follows: 45 percent to the High-Cost Program and 55 percent
2 to the Connectivity Initiative.

3 (b) Of the money transferred to the Connectivity Fund pursuant to
4 subsection 7523(b) of this title, up to \$120,000.00 shall be appropriated
5 annually to the Department of Public Service to fund a Rural Broadband
6 Technical Assistance Specialist whose duties shall include providing outreach,
7 technical assistance, and other support services to communications union
8 districts established pursuant to chapter 82 of this title and other units of
9 government, nonprofit organizations, cooperatives, and for-profit businesses
10 for the purpose of expanding broadband service to unserved and underserved
11 locations. Support services also may include providing business model
12 templates for various approaches, including formation of or partnership with a
13 cooperative, a communications union district, a rural economic development
14 infrastructure district, an electric utility, or a new or existing Internet service
15 provider as operator of the network. Any remaining funds shall be used to
16 support the Connectivity Initiative established under section 7515b of this title.

17 * * * High-Cost Program; Connectivity Initiative;

18 Speed Requirements * * *

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

20 § 7515. HIGH-COST PROGRAM

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

5 * * *

6 (g) Except as provided in subsection (h) of this section, a VETC shall
7 provide broadband Internet access at speeds no lower than ~~4 Mbps download~~
8 ~~and 1 Mbps upload~~ 25 Mbps download and 3 Mbps upload in each high-cost
9 area it serves within five years of designation. A VETC need not provide
10 broadband service to a location that has service available from another service
11 provider, as determined by the Department of Public Service.

12 * * *

13 Sec. 5. 30 V.S.A. § 7515b is amended to read:

14 § 7515b. CONNECTIVITY INITIATIVE

15 (a) The purpose of the Connectivity Initiative is to provide each service
16 location in Vermont access to Internet service that is capable of speeds of at
17 least ~~10 Mbps download and 1 Mbps upload~~ 25 Mbps download and 3 Mbps
18 upload, or the FCC speed requirements established under Connect America
19 Fund Phase II, whichever is higher, beginning with locations not served as of
20 December 31, 2013 according to the minimum technical service characteristic
21 objectives applicable at that time. Within this category of service locations,

1 priority shall be given first to unserved and then to underserved locations. As
2 used in this section, “unserved” means a location having access to only satellite
3 or dial-up Internet service and “underserved” means a location having access
4 to Internet service with speeds that exceed satellite and dial-up speeds but are
5 less than 4 Mbps download and 1 Mbps upload. Any new services funded in
6 whole or in part by monies from this Initiative shall be capable of being
7 continuously upgraded to reflect the best available, most economically feasible
8 service capabilities.

9 * * *

10 * * * VUSF; Prepaid Wireless; Point of Sale * * *

11 Sec. 6. 30 V.S.A. § 7521(d) is amended to read:

12 ~~(d)(1) Notwithstanding any other provision of law to the contrary,~~
13 ~~beginning on September 1, 2014, in the case of prepaid wireless~~
14 ~~telecommunications service, the Universal Service Charge shall be imposed as~~
15 ~~follows:~~

16 ~~(A) If the provider sells directly to a consumer in a retail transaction,~~
17 ~~the provider may collect the Charge from the customer at the rate specified in~~
18 ~~section 7523 of this title; or~~

19 ~~(B) if the provider does not sell directly to the consumer, or if the~~
20 ~~provider sells directly to the customer in a retail transaction but elects not to~~

1 collect the Charge from the customer, the Charge shall be imposed on the
2 provider at the rate determined in subdivision (2) of this subsection (d).

3 (2) The Public Utility Commission shall establish a formula to ensure
4 the Universal Service Charge rate imposed on prepaid wireless
5 telecommunications service providers under subdivision (1)(B) of this
6 subsection reflects two percent of retail prepaid wireless telecommunications
7 service in Vermont.

8 (3) As used in this subsection, “prepaid wireless telecommunications
9 service” means a telecommunications service as defined in subdivision 203(5)
10 of this title that a consumer pays for in advance and that is sold in
11 predetermined units or dollars that decline with use. [Repealed.]

12 Sec. 7. 30 V.S.A. § 7521(e) is added to read:

13 (e)(1) Notwithstanding any other provision of law to the contrary,
14 beginning on January 1, 2020, the Universal Service Charge shall be imposed
15 on all retail sales of prepaid wireless telecommunications service subject to the
16 sales and use tax imposed under 32 V.S.A. chapter 233. The charges shall be
17 collected by sellers and remitted to the Department of Taxes in the manner
18 provided under 32 V.S.A. chapter 233. Upon receipt of the charges, the
19 Department of Taxes shall have 30 days to remit the funds to the fiscal agent
20 selected under section 7503 of this chapter. The Commissioner of Taxes shall
21 establish registration and payment procedures applicable to the Universal

1 Service Charge imposed under this subsection consistent with the registration
2 and payment procedures that apply to the sales tax imposed on such services
3 and also consistent with the administrative provisions of 32 V.S.A. chapter
4 151, including any enforcement or collection action available for taxes owed
5 pursuant to that chapter.

6 (2) If a minimal amount of prepaid wireless telecommunications service
7 is sold with a prepaid wireless device for a single, nonitemized price, then the
8 seller may elect not to apply the Universal Service Charge to such transaction.

9 (3) As used in this subsection:

10 (A) “Minimal amount” means an amount of service denominated as
11 not more than 10 minutes or not more than \$5.00.

12 (B) “Prepaid wireless telecommunications service” means a
13 telecommunications service as defined in subdivision 203(5) of this title that a
14 consumer pays for in advance and that is sold in predetermined units or dollars
15 that decline with use.

16 (C) “Seller” means a person who sells prepaid wireless
17 telecommunications service to a consumer.

18 * * * One-Time Transfer and Appropriation; Broadband Innovation Grant

19 Program; Federal RUS Grants and Loans * * *

20 Sec. 8. FISCAL YEAR 2020 ONE-TIME GENERAL FUND TRANSFER

1 (a) From the General Fund to the Connectivity Fund established pursuant
2 to 30 V.S.A. § 7516: \$955,000.00 to be allocated as follows:

3 (1) \$700,000.00 to fund grants through the Broadband Innovation Grant
4 Program established in Sec. 10 of this act.

5 (2) \$205,000.00 to fund grants through the Connectivity Initiative as
6 provided in 30 V.S.A. § 7515b(b).

7 (3) \$50,000.00 to the Department of Public Service to assess the
8 feasibility of providing broadband service using electric utility infrastructure,
9 pursuant to Sec. 11 of this act.

10 (b) These monies shall not be subject to the distribution requirements of
11 30 V.S.A. § 7511(a)(1)(A)–(D).

12 Sec. 9. FISCAL YEAR 2020 ONE-TIME GENERAL FUND

13 APPROPRIATION

14 To the ThinkVermont Innovation Initiative established in 2018 Acts and
15 Resolves No. 197, Sec. 2, \$45,000.00 is appropriated for the purpose of
16 funding technical assistance grants to Vermont municipalities planning
17 broadband projects.

18 Sec. 10. DEPARTMENT OF PUBLIC SERVICE; BROADBAND

19 INNOVATION GRANT PROGRAM

20 (a) There is established the Broadband Innovation Grant Program to be
21 administered by the Commissioner of Public Service. The purpose of the

1 Program is to fund feasibility studies related to the deployment of broadband in
2 rural unserved and underserved areas of Vermont. The following conditions
3 shall apply to the Program:

4 (1) Grants shall be used to support studies that contemplate the
5 provision of broadband service that is capable of speeds of at least 100 Mbps
6 symmetrical.

7 (2) Eligible grant applicants shall include communications union
8 districts and other units of government, nonprofit organizations, cooperatives,
9 and for-profit businesses.

10 (3) Grantees shall produce an actionable business plan for a potential
11 broadband solution, which may include formation of or partnership with a
12 cooperative, communications union district, rural economic development
13 infrastructure district, municipal communications plant, or utility. The
14 business plan required by this subdivision shall include engineering and design
15 plans, financing models, estimated construction costs, and ideal operational
16 models.

17 (4) A grant award may not exceed \$60,000.00.

18 (5) Not more than 2.5 percent of a grant may be used for grant
19 management.

20 (6) Not more than two electric distribution utilities shall be awarded a
21 grant under the Program for the purpose of determining the market feasibility

1 of providing broadband service using electric company infrastructure. Awards
2 to distribution utilities shall be made pursuant to a competitive bidding process
3 initiated not sooner than January 1, 2020, or upon submission of the report
4 required by Sec. 11 of this act, whichever is sooner, and shall be consistent
5 with the recommendations contained in that report.

6 (7) Studies funded through the Program shall conclude within six
7 months of receipt of the award; distribution utility studies shall conclude
8 within 12 months of receipt of the award.

9 (8) The Commissioner shall retain 50 percent of the grant award until he
10 or she determines that the study has been completed consistent with the terms
11 of the grant.

12 (9) Grant recipients shall report their findings and recommendations to
13 the Commissioner of Public Service within 30 days following the completion
14 of a study funded under the Program.

15 (b) To the extent such information is available, the Commissioner of Public
16 Service shall aggregate the information submitted under subdivision (a)(9) of
17 this section and shall report his or her findings and recommendations to the
18 House Committee on Energy and Technology and the Senate Committee on
19 Finance on or before January 15, 2020, and annually thereafter until all of the
20 funds in the Program have been expended.

21 Sec. 11. STUDY; FEASIBILITY OF ELECTRIC COMPANIES OFFERING

1 BROADBAND SERVICE IN VERMONT

2 (a) The Commissioner of Public Service shall study the feasibility of
3 Vermont electric companies providing broadband service using electric
4 distribution and transmission infrastructure. Among other things, a feasibility
5 determination shall address potential advantages of serving utilities' internal
6 data needs and expanding fiber for providing broadband service, the
7 compatibility of broadband service with existing electric service, the financial
8 investment necessary to undertake the provision of broadband service,
9 identification of the unserved and underserved areas of the State where the
10 provision of broadband service by an electric company appears feasible; the
11 impact on electric rates, the financial risk to electric companies, and any
12 differences that may exist between electric companies. The Commissioner
13 also shall address any financial consequences and any technical or safety issues
14 resulting from attaching communications facilities in the electric safety space
15 as opposed to the communications space of distribution infrastructure.

16 (b) In performing the feasibility study required by this section, the
17 Commissioner, in consultation with the Public Utility Commission, shall
18 consider regulatory barriers to the provision of broadband service by electric
19 companies, and shall develop legislative proposals to address those barriers. In
20 addition, the Commissioner, in collaboration with representatives from each

1 electric company, shall evaluate whether it is in the public interest and also in
2 the interest of electric companies for electric companies to:

3 (1) make improvements to the distribution grid in furtherance of
4 providing broadband service in conjunction with electric distribution grid
5 transformation projects;

6 (2) operate a network using electric distribution and transmission
7 infrastructure to provide broadband service at speeds of at least 25 Mbps
8 download and 3 Mbps upload; and

9 (3) permit a communications union district or other unit of government,
10 nonprofit organization, cooperative, or for-profit business to lease excess
11 utility capacity to provide broadband service to unserved and underserved
12 areas of the State.

13 (c) Any electric distribution or transmission company subject to the
14 jurisdiction of the Public Utility Commission shall aid in the development of
15 information and analysis as requested by the Commissioner to complete the
16 report required by this section.

17 (d) The Commissioner shall report the feasibility findings and
18 recommendations required by this section to the Senate Committee on Finance
19 and to the House Committee on Energy and Technology on or before
20 January 1, 2020.

21 Sec. 12. 30 V.S.A. § 3047 is amended to read:

1 § 3047. COST ALLOCATIONS; SUBSIDIZATION PROHIBITED

2 In carrying out the purposes of this chapter, the electric revenues received
3 from regulated activities of a cooperative shall not subsidize any nonelectric
4 activities of the cooperative. A cooperative shall adopt cost allocation
5 procedures to ensure that the electrical distribution revenues received from
6 regulated activities of a cooperative do not subsidize any of the nonelectric
7 activities and that costs attributable to any nonelectric activities are not
8 included in the cooperative's rates for electric service. A copy of the cost
9 allocation procedures shall be available to the public upon request.

10 ~~Nonelectric activities of the cooperative shall not be financed by loans or~~
11 ~~grants from the Rural Utilities Service of the U.S. Department of Agriculture~~
12 ~~or any successor federal agency.~~

13 * * * Municipalities; Communications Plants; Public-Private Partnership;

14 Study of General Obligation Bonding Authority * * *

15 Sec. 13. 24 V.S.A. § 1913 is amended to read:

16 § 1913. COMMUNICATIONS PLANT; OPERATION AND REGULATION

17 (a) A municipality shall operate its communications plant in accordance
18 with the applicable State and federal law and regulation, and chapter 53 of this
19 title, relating to municipal indebtedness, with regard to the financing,
20 improvements, expansion, and disposal of the municipal communications plant
21 and its operations. However, the powers conferred by such provisions of law

1 shall be supplemental to, construed in harmony with, and not in restriction of,
2 the powers conferred in this chapter.

3 (b) A municipality's operation of any communications plant shall be
4 supported solely by the revenues derived from the operation of such
5 communications plant, except that portion which is used for its own municipal
6 purposes.

7 (c) A municipality may finance any capital improvement related to its
8 operation of such communications plant for the benefit of the people of the
9 municipality in accordance with the provisions of chapter 53 of this title,
10 provided that revenue-backed bonds shall be paid from net revenues derived
11 from the operation of the communications plant.

12 (d) Any restriction regarding the maximum outstanding debt that may be
13 issued in the form of general obligation bonds shall not restrict the issuance of
14 any bonds issued by a municipality and payable out of the net revenues from
15 the operation of a public utility project under chapter 53, subchapter 2 of
16 ~~chapter 53~~ of this title.

17 (e) To the extent that a municipality constructs communication
18 infrastructure with the intent of providing communications services, whether
19 wholesale or retail, the municipality shall ensure that any and all losses from
20 these businesses, or in the event these businesses are abandoned or curtailed,

1 any and all costs associated with the investment in communications
2 infrastructure, are not borne by the municipality's taxpayers.

3 (f) Notwithstanding any other provision of law to the contrary, a
4 municipality may enter into a public-private partnership for the purpose of
5 exercising its authority under this subchapter regarding the provision of
6 communications services and may contract with a private entity to co-own,
7 operate, or manage a communications plant financed in whole or in part
8 pursuant to this chapter and chapter 53, subchapter 2 of this title, provided the
9 municipality first issues a request for proposals seeking an Internet service
10 provider to serve unserved and underserved locations targeted by the issuing
11 municipality. The terms of such a partnership shall specify that the owner or
12 owners of the communications plant, as applicable, shall be responsible for
13 debt service.

14 Sec. 14. RECOMMENDATION; GENERAL OBLIGATION

15 BONDS FOR MUNICIPAL COMMUNICATIONS PLANTS

16 The Secretary of Administration or designee, in collaboration with the State
17 Treasurer or designee and the Executive Director of the Vermont Municipal
18 Bond Bank or designee, shall investigate the use of general obligation bonds
19 by a municipality to finance capital improvements related to the operation of a
20 communications plant. On or before December 1, 2019, the Secretary shall

1 report his or her findings and recommendations to the House Committee on
2 Energy and Technology and the Senate Committee on Finance.

3 * * * VEDA; Broadband Expansion Loan Program * * *

4 Sec. 15. 10 V.S.A. chapter 12, subchapter 14 is added to read:

5 Subchapter 14. Broadband Expansion Loan Program

6 § 280ee. BROADBAND EXPANSION LOAN PROGRAM

7 (a) Creation. There is established within the Authority the Vermont
8 Broadband Expansion Loan Program (the Program), the purpose of which is to
9 enable the Authority to make loans that expand broadband service to unserved
10 and underserved Vermonters.

11 (b) Intent. It is understood that loans under the Program may be high-risk
12 loans to likely start-up businesses and therefore losses in the Program may be
13 higher than the Authority's historical loss rate. Loans shall be underwritten by
14 the Authority utilizing underwriting parameters that acknowledge the higher
15 risk nature of these loans. The Authority shall not make a loan unless the
16 Authority has a reasonable expectation of the long-term viability of the
17 business.

18 (c)(1) Requirements. The Authority shall make loans for start-up and
19 expansion that enable the Internet service providers to expand broadband
20 availability in unserved and underserved locations.

1 (2) The Authority shall establish policies and procedures for the
2 Program necessary to ensure the expansion of broadband availability to the
3 largest number of Vermont addresses as possible. The policies shall specify
4 that:

5 (A) loans may be made in an amount of up to \$4,000,000.00;

6 (B) eligible borrowers include communications union districts and
7 other units of government, nonprofit organizations, cooperatives, and for-profit
8 businesses;

9 (C) a loan shall not exceed 90 percent of project costs;

10 (D) interest and principal may be deferred up to two years;

11 (E) a maximum of \$10,800,000.00 in Authority loans may be made
12 under the Program commencing on the effective date of this act; and

13 (F) the provider shall offer to all customers broadband service that is
14 capable of speeds of at least 100 Mbps symmetrical.

15 (3) To ensure the limited funding available through the Program
16 supports the highest-quality broadband available to the most Vermonters and
17 prioritizes delivering services to the unserved and underserved, the Authority
18 shall consult with the Department of Public Service.

19 (d) On or before January 1, 2020, and annually thereafter, the Authority
20 shall submit a report of its activities pursuant to this section to the Senate
21 Committee on Finance and the House Committees on Commerce and

1 Economic Development and on Energy and Technology. Each report shall
2 include operating and financial statements for the two most recently concluded
3 State fiscal years. In addition, each report shall include information on the
4 Program portfolio, including the number of projects financed; the amount,
5 terms, and repayment status of each loan; and a description of the broadband
6 projects financed in whole or in part by the Program.

7 § 280ff. FUNDING

8 (a) The State Treasurer, in consultation with the Secretary of
9 Administration, shall negotiate an agreement with the Authority incorporating
10 the provisions of this section and consistent with the requirements of this
11 subchapter.

12 (b) Repayment from or appropriation to the Authority in years 2021 and
13 until the Program terminates is based on the Authority's contributions to loan
14 loss reserves for the Program in accordance with generally accepted
15 accounting principles. Any difference between the actual loan losses incurred
16 by the Authority in fiscal year 2020 through Program termination shall be
17 adjusted in the following year's appropriation.

18 (1) The Program shall terminate when all borrowers enrolled in the
19 Program have repaid in full or loans have been charged-off against the reserves
20 of the Authority.

1 (2) Upon termination of the Program, any remaining funds held by the
2 Authority and not used for the Program shall be repaid to the State.

3 (3) The accumulated total of the appropriation shall not exceed
4 \$8,500,000.00 over the life of the Program.

5 (4) The Authority shall absorb its historical loan loss reserve rate before
6 any State funds are expended.

7 (5) Additionally, the Authority shall absorb up to \$3,000,000.00 in
8 Program losses shared with the State on a pro rata basis.

9 Sec. 16. FISCAL YEAR 2020 ONE-TIME GENERAL FUND

10 APPROPRIATION

11 To the Vermont Economic Development Authority, \$540,000.00 is
12 appropriated to serve as loan reserves to administer the Broadband Expansion
13 Loan Program established in Sec.15 of this act.

14 Sec. 17. 10 V.S.A. § 219(d) is amended to read:

15 (d) In order to ensure the maintenance of the debt service reserve
16 requirement in each debt service reserve fund established by the Authority,
17 there may be appropriated annually and paid to the Authority for deposit in
18 each such fund, such sum as shall be certified by the Chair of the Authority, to
19 the Governor, the President of the Senate, and the Speaker of the House, as is
20 necessary to restore each such debt service reserve fund to an amount equal to
21 the debt service reserve requirement for such fund. The Chair shall annually,

1 on or about February 1, make, execute, and deliver to the Governor, the
2 President of the Senate, and the Speaker of the House, a certificate stating the
3 sum required to restore each such debt service reserve fund to the amount
4 aforesaid, and the sum so certified may be appropriated, and if appropriated,
5 shall be paid to the Authority during the then current State fiscal year. The
6 principal amount of bonds or notes outstanding at any one time and secured in
7 whole or in part by a debt service reserve fund to which State funds may be
8 appropriated pursuant to this subsection shall not exceed ~~\$175,000,000.00~~
9 \$181,000,000.00, provided that the foregoing shall not impair the obligation of
10 any contract or contracts entered into by the Authority in contravention of the
11 Constitution of the United States.

12 Sec. 18. 30 V.S.A. § 8064(a)(1) is amended to read:

13 (a)(1) The Authority may issue its negotiable notes and bonds in such
14 principal amount as the Authority determines to be necessary to provide
15 sufficient funds for achieving any of its corporate purposes, including the
16 payment of interest on notes and bonds of the Authority, establishment of
17 reserves to secure the notes and bonds including the reserve funds created
18 under section 8065 of this title, and all other expenditures of the Authority
19 incident to and necessary or convenient to carry out its corporate purposes and
20 powers. However, the bonds or notes of the Authority outstanding at any one
21 time shall not exceed ~~\$40,000,000.00~~ \$34,000,000.00. No bonds shall be

1 issued under this section without the prior approval of the Governor and the
2 State Treasurer or their respective designees. In addition, before the Authority
3 may initially exercise its bonding authority granted by this section, it shall
4 submit to the Emergency Board of the State a current business plan, including
5 an explanation of the bond issue or issues initially proposed.

6 * * * Pole Attachments * * *

7 Sec. 19. POLE ATTACHMENTS; PUBLIC UTILITY COMMISSION

8 RULES

9 (a) The Public Utility Commission shall revise Rule 3.700 to implement the
10 following:

11 (1) One-touch make-ready policies for pole attachments in the
12 communications space. The Commission shall consider measures requiring
13 pole-owning utilities to complete any needed pole replacements, and related
14 electrical work, in sufficient time to make it reasonably possible for existing
15 attaching entities in the communications space to comply with make-ready
16 deadlines and shall also consider whether a pole-owning utility whose delays
17 prevent timely make-ready completion by the attaching entities in the
18 communications space should pay interest to the applicant.

19 (2) Measures designed to minimize delays and costs and promote fair
20 and reasonable rates and the rapid resolution of disputes.

1 (3) Specifications for when a make-ready completion period commences
2 and ends, including a process for extending the make-ready completion period
3 in limited circumstances as defined by the Commission.

4 (4) Any other revisions deemed relevant by the Commission.

5 (b) The Commission shall file a final proposed rule with the Secretary of
6 State and with the Legislative Committee on Administrative Rules pursuant to
7 3 V.S.A. § 841 on or before December 1, 2019.

8 (c) On July 15, 2016, the Commission opened a rulemaking proceeding to
9 consider amending Commissioner Rule 3.706(D)(1) regarding the rental
10 calculation for pole attachments. The Commission shall complete this
11 proceeding and file a final proposed rule with the Secretary of State and with
12 the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841
13 on or before June 1, 2020.

14 Sec. 20. 30 V.S.A. § 209(i) is amended to read:

15 (i)(1) Pole attachments; broadband. For the purposes of Commission rules
16 on attachments to poles owned by companies subject to regulation under this
17 title, broadband service providers shall be considered “attaching entities” with
18 equivalent rights to attach facilities as those provided to “attaching entities” in
19 the rules, regardless of whether such broadband providers offer a service
20 subject to the jurisdiction of the Commission. The Commission shall adopt
21 rules in accordance with 3 V.S.A. chapter 25 to further implement this section.

1 The rules shall be aimed at furthering the State’s interest in ubiquitous
2 deployment of mobile telecommunications and broadband services within the
3 State.

4 (2) The rules adopted pursuant to this subsection shall specify that:

5 (A) The applicable make-ready completion period shall not be
6 extended solely because a utility pole is jointly owned.

7 (B) At the time of an initial pole make-ready survey application,
8 when a pole is jointly owned, the joint owners shall inform the applicant which
9 owner is responsible for all subsequent stages and timely completion of the
10 make-ready process.

11 (C) If the make-ready work is not completed within the applicable
12 make-ready completion period, the pole owner shall refund the portion of the
13 payment received for make-ready work that is not yet completed, and the
14 attaching entity may hire a qualified contractor to complete the make-ready
15 work. All pole owners and attaching entities shall submit to the Commission a
16 list of contractors whom they allow to perform make-ready surveys, make-
17 ready installation or maintenance, or other specified tasks upon their
18 equipment. The Commission shall provide the appropriate list to an attaching
19 entity, upon request.

20 Sec. 20a. LEGISLATIVE INTENT; POLE ATTACHMENTS

1 Sections 19 and 20 of this act, concerning revisions to Vermont’s pole
2 attachment rules, shall not be construed to endorse a particular generation of
3 communications technology, be it wired or wireless. The revisions are
4 intended to clarify the terms and conditions of pole attachments, in general,
5 and to promote greater transparency and certainty for attaching entities and for
6 pole owners and to do so in a manner that furthers Vermont’s interest in
7 achieving ubiquitous deployment of mobile telecommunications and
8 broadband services within the State.

9 * * * Department of Public Service; Rural Broadband

10 Technical Assistance Specialist * * *

11 Sec. 21. RURAL BROADBAND TECHNICAL ASSISTANCE SPECIALIST

12 One new classified position, Rural Broadband Technical Assistance
13 Specialist, is authorized to be established within the Department of Public
14 Service in fiscal year 2020. Beginning in fiscal year 2020, this position shall
15 be funded as provided under 30 V.S.A. § 7516(b).

16 * * * State Telecommunications Plan * * *

17 Sec. 22. 30 V.S.A. § 202d is amended to read:

18 § 202d. TELECOMMUNICATIONS PLAN

19 (a) The Department of Public Service shall constitute the responsible
20 planning agency of the State for the purpose of obtaining for all consumers in
21 the State stable and predictable rates and a technologically advanced

1 telecommunications network serving all service areas in the State. The
2 Department shall be responsible for the provision of plans for meeting
3 emerging trends related to telecommunications technology, markets, financing,
4 and competition.

5 (b) The Department shall prepare the Telecommunications Plan for the
6 State. ~~The Department of Innovation and Information~~ Agency of Digital
7 Services, the Agency of Commerce and Community Development, and the
8 Agency of Transportation shall assist the Department in preparing the Plan.
9 The Plan shall be for a 10-year period and shall serve as a basis for State
10 telecommunications policy. Prior to preparing the Plan, the Department shall
11 prepare:

12 (1) An overview, looking 10 years ahead, of ~~future requirements for~~
13 ~~telecommunications services, considering services needed for economic~~
14 ~~development, technological advances, and other trends and factors which, as~~
15 ~~determined by the Department of Public Service, will significantly affect State~~
16 ~~telecommunications policy and programs~~ statewide growth and development
17 as they relate to future requirements for telecommunications services,
18 including patterns of urban expansion, statewide and service area economic
19 growth, shifts in transportation modes, economic development, technological
20 advances, and other trends and factors that will significantly affect State
21 telecommunications policy and programs. The overview shall include an

1 economic and demographic forecast sufficient to determine infrastructure
2 investment goals and objectives.

3 (2) One or more surveys of Vermont residents and businesses,
4 conducted in cooperation with the Agency of Commerce and Community
5 Development to determine what telecommunications services are needed now
6 and in the succeeding 10 years, generally, and with respect to the following
7 specific sectors in Vermont;

8 (A) the educational sector, with input from the Secretary of
9 Education;

10 (B) the health care and human services sectors, with input from the
11 Commissioner of Health and the Secretary of Human Services;

12 (C) the public safety sector, with input from the Commissioner of
13 Public Safety and the Executive Director of the Enhanced 911 Board; and

14 (D) the workforce training and development sectors, with input from
15 the Commissioner of Labor.

16 (3) An assessment of the current state of telecommunications
17 infrastructure.

18 (4) An assessment, conducted in cooperation with the ~~Department of~~
19 ~~Innovation and Information and the Agency of Transportation, of the current~~
20 ~~State telecommunications system and evaluation of alternative proposals for~~
21 ~~upgrading the system to provide the best available and affordable technology~~

1 ~~for use by government~~ Agency of Digital Services and the Agency of
2 Transportation, of State-owned and managed telecommunications systems and
3 related infrastructure and an evaluation, with specific goals and objectives, of
4 alternative proposals for upgrading the systems to provide the best available
5 and affordable technology for use by State and local government, public safety,
6 educational institutions, community media, nonprofit organizations performing
7 governmental functions, and other community anchor institutions.

8 (5) ~~An~~ A geographically specific assessment of the ~~state~~ status,
9 coverage, and capacity of telecommunications networks and services ~~in~~
10 available throughout Vermont, a comparison of available services relative to
11 other states, including price and broadband speed comparisons for key services
12 and comparisons of the ~~state~~ status of technology deployment.

13 (6) An assessment of opportunities for shared infrastructure, open
14 access, and neutral host wireless facilities that is sufficiently specific to guide
15 the Public Utility Commission, the Department, State and local governments,
16 and telecommunications service companies in the deployment of new
17 technology.

18 (7) An analysis of available options to support the State's access media
19 organizations.

20 (8) With respect to emergency communications, an analysis of all
21 federal initiatives and requirements, including the Department of Commerce

1 FirstNet initiative and the Department of Homeland Security Statewide
2 Communication Interoperability Plan, and how these activities can best be
3 integrated with strategies to advance the State’s interest in achieving
4 ubiquitous deployment of mobile telecommunications and broadband services
5 within Vermont.

6 (9) An analysis of alternative strategies to leverage the State’s
7 ownership and management of the public rights-of-way to create opportunities
8 for accelerating the buildout of fiber-optic broadband and for increasing
9 network resiliency capacity.

10 (c) In developing the Plan, the Department shall ~~take into account~~ address
11 each of the State telecommunications policies and goals of section 202c of this
12 title, and shall assess initiatives designed to advance and make measurable
13 progress with respect to each of those policies and goals. The assessment shall
14 include identification of the resources required and potential sources of
15 funding for Plan implementation.

16 (d) The Department shall establish a participatory planning process that
17 includes effective provisions for increased public participation. In establishing
18 plans, public hearings shall be held and the Department shall consult with
19 members of the public, representatives of telecommunications utilities with a
20 certificate of public good, other providers, including the Vermont Electric
21 Power Co., Inc. (VELCO) and communications union districts, and other

1 interested State agencies, particularly the Agency of Commerce and
2 Community Development, the Agency of Transportation, and the ~~Department~~
3 ~~of Innovation and Information~~ Agency of Digital Services, whose views shall
4 be considered in preparation of the Plan. To the extent necessary, the
5 Department shall include in the Plan surveys to determine existing, needed,
6 and desirable plant improvements and extensions, access and coordination
7 between telecommunications providers, methods of operations, and any change
8 that will produce better service or reduce costs. To this end, the Department
9 may require the submission of data by each company subject to supervision by
10 the Public Utility Commission.

11 (e) Before adopting the Plan, the Department shall first prepare and publish
12 a preliminary draft and solicit public comment. The Department's procedures
13 for soliciting public comment shall include a method for submitting comments
14 electronically. After review and consideration of the comments received, the
15 Department shall prepare a final draft. This final draft shall either incorporate
16 public comments received with respect to the preliminary draft or shall include
17 a detailed explanation as to why specific individual comments were not
18 incorporated. The Department shall conduct at least four public hearings
19 across the State on a the final draft and shall consider the testimony presented
20 at such hearings in when preparing the final Plan. The Department shall
21 coordinate with Vermont's access media organizations when planning the

1 public hearings required by this subsection. At least one public hearing shall
2 be held jointly with committees of the General Assembly designated by the
3 General Assembly for this purpose. ~~The Plan shall be adopted by September 1,~~
4 ~~2014, and then reviewed and updated as provided in subsection (f) of this~~
5 ~~section.~~

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

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

1 Sec. 23. TELECOMMUNICATIONS PLAN ADOPTION SCHEDULE;
2 RESOURCES

3 (a) It is the intent of the General Assembly that, regardless of when the
4 2017 Telecommunications Plan is adopted, a new Plan shall be adopted on or
5 before December 1, 2020 in accordance with the procedures established
6 in 30 V.S.A. § 202d(e). The next Plan after that shall be adopted on or before
7 December 1, 2023, and so on.

8 (b) If at any time it becomes apparent to the Commissioner of Public
9 Service that the Department lacks the time or the resources to comply with the
10 requirements of 30 V.S.A. § 202d or of this section, the Commissioner shall
11 submit a report to the General Assembly on what additional resources or time
12 are necessary. The report shall be submitted prior to the adoption date and
13 with sufficient time to allow for any needed legislative action prior to the
14 adoption date. The report may include a proposal for contracting with an
15 outside entity to prepare the Plan, or a portion thereof, and, if so, shall include
16 a suggested funding amount and source.

17 * * * Radio Frequency Emissions; Report * * *

18 Sec. 24. WIRELESS TECHNOLOGIES; PUBLIC HEALTH REPORT

19 (a) On or before January 1, 2020, the Commissioner of Health shall submit
20 to the Senate Committees on Health and Welfare and on Finance and the
21 House Committees on Health Care and on Energy and Technology a report on

1 the possible health consequences from exposure to the radio frequency fields
2 produced by wireless technologies, including cellular telephones and FCC-
3 regulated transmitters. The report shall include a summary of available
4 scientific data as well as a comparison of various emissions standards and
5 guidelines.

6 (b) The purpose of this report is to provide policymakers and the general
7 public information deemed significant by many Vermonters. It is not intended
8 that the information gathered in the report be used to form the basis of policies
9 that are inconsistent with federal law.

10 * * * E-911 Service; Power Outages; Reporting * * *

11 Sec. 25. POWER OUTAGES AFFECTING E-911 SERVICE; REPORTING;
12 RULE; E-911 BOARD

13 (a) The E-911 Board shall adopt a rule requiring every provider of
14 facilities-based, fixed voice service that is not line-powered to report to the E-
15 911 Board within two hours any outage in its system such that more than 10
16 subscribers lose the capacity to make an E-911 call. An outage for purposes of
17 this section is any loss of E-911 calling capacity, whether caused by lack of
18 function of the subscriber's backup power equipment, lack of function within
19 the provider's system, or by any other factor external to the provider's system,
20 including an outage in the electric power system. In addition, the rule shall
21 require every electric company to report to the E-911 Board any network-wide

1 power outage affecting more than one service location within two hours of
2 notice of the outage or as soon as practicable. The E-911 Board shall file a
3 final proposed rule with the Secretary of State and with the Legislative
4 Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before
5 February 1, 2020.

6 (b) On or before 30 days after the effective date of this section, the E-911
7 Board shall adopt temporary standards and procedures consistent with the
8 requirements in subsection (a) of this section that shall remain in effect until
9 the effective date of permanent rules adopted under subsection (a) of this
10 section.

11 * * * Backup Power; E-911 Service; Report * * *

12 Sec. 26. E-911 SERVICE; BACKUP POWER REQUIREMENTS;
13 WORKSHOP; REPORT

14 (a) Findings. As many telecommunications networks transition away from
15 copper-based, line-powered technology, many consumers remain unaware that
16 they must take action to ensure the availability of a dial tone in the event of a
17 commercial power outage. As a result, this transition has the potential to
18 create a widespread public safety issue if Vermonters are unable to access E-
19 911 services during a power outage. In recognition of this issue, the FCC
20 adopted rules placing backup-power obligations on providers of “facilities-
21 based fixed, residential voice services that are not line-powered” (covered

1 services). See *Ensuring Continuity of 911 Communications*, Report and Order,
2 30 FCC Rcd 8677 (2015), 47 C.F.R. § 12.5. The FCC rules mandate
3 performance requirements and disclosure obligations on providers of covered
4 services. After receiving concerns by Vermonters regarding provider
5 compliance with the FCC’s backup-power obligations, the Department of
6 Public Service filed a request with the Public Utility Commission to initiate a
7 workshop on the matter. The Commission authorized the workshop on March
8 21, 2019, Case No. 19-0705-PET.

9 (b) Report. Given the critical public safety issues at stake, on or before
10 December 15, 2019, the Public Utility Commission shall report to the General
11 Assembly its findings regarding provider compliance with backup-power
12 obligations and shall recommend best practices for minimizing disruptions to
13 E-911 services during power outages through:

14 (1) consumer education and community outreach;

15 (2) technical and financial assistance to consumers and communities;

16 (3) cost-effective and technologically efficient ways in which providers
17 or alternative entities can provide such information and assistance; and

18 (4) ongoing monitoring of provider compliance with backup-power
19 obligations.

20 * * * PEG Access; Joint Information Technology Oversight Committee * * *

1 Sec. 27. PEG ACCESS; JOINT INFORMATION TECHNOLOGY

2 OVERSIGHT COMMITTEE; REPORT

3 On or before December 15, 2019, the Joint Information Technology
4 Oversight Committee established under 2 V.S.A. chapter 18 shall submit to the
5 General Assembly a report that addresses public, educational, and government
6 (PEG) access television in Vermont. The report shall include findings and
7 recommendations regarding any changes in federal and State law and policy,
8 market trends, and any other matters that have an affect on the availability of
9 or funding for PEG access television. The Committee shall assess the value of
10 PEG access to Vermont communities; the costs of such programming and
11 related services; and options for sustainable funding for PEG access television.
12 The Committee shall solicit input from regulators, communications providers,
13 access management organizations, and any other organizations and individuals
14 deemed appropriate by the Committee.

15 * * * Effective Dates * * *

16 Sec. 28. EFFECTIVE DATES

17 This act shall take effect on passage, except that Sec. 6 (repeal of prepaid
18 wireless revenue surcharge) shall take effect on January 1, 2020.

1 (Committee vote: _____)

2

3

Senator _____

4

FOR THE COMMITTEE