Introduced by Senators Brock, Benning, Collamore, Ingalls, Parent, Sirotkin and Terenzini

Referred to Committee on

Date:

Subject: Communications; Vermont Telecommunications Authority; mobile telecommunications and broadband deployment; telecommunications mapping and planning

Statement of purpose of bill as introduced: This bill proposes to reconstitute the Vermont Telecommunications Authority to coordinate, oversee, and implement a new approach to creative and innovative strategies designed to address the challenges to maintaining a robust, modern telecommunications network in Vermont accessible by all.

An act relating to reconstituting the Vermont Telecommunications Authority

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

*** Vermont Telecommunications Authority ***

Sec. 1. 30 V.S.A. chapter 91A is added to read:

CHAPTER 91A. VERMONT TELECOMMUNICATIONS AUTHORITY

§ 8081. POLICY AND PURPOSE
(a) Policy. It is the policy of the State of Vermont to support and facilitate efforts that advance the State’s goal of achieving universal access to reliable, high-quality, affordable mobile telecommunications and broadband service.

(b) Purpose. It is the purpose of this chapter to reconstitute the Vermont Telecommunications Authority as the State entity responsible for coordinating, overseeing, and facilitating statewide mobile telecommunications and broadband deployment. The Authority shall be empowered to make strategic and innovative investments in mobile telecommunications and broadband projects. These investments shall be informed by comprehensive, accurate, and reliable data and shall be consistent with long-term policy and planning. The goal of the Authority shall be to foster financially sustainable projects and to simultaneously promote competition and universal access to reliable, high-quality, affordable mobile telecommunications and broadband service in unserved and underserved locations in Vermont.

§ 8082. ESTABLISHMENT AND ORGANIZATION

(a) The Vermont Telecommunications Authority is hereby created and established as a body corporate and politic and a public instrumentality of the State. The exercise by the Authority of the powers conferred upon it in this chapter constitutes the performance of essential governmental functions.

(b) The Authority shall have a Board of Directors of nine members as follows:
(1) the Chair and Chief Executive Officer of the Authority;

(2) the Commissioner of Public Service or designee;

(3) the Treasurer or designee;

(4) one public member selected by the Vermont Communications Union District Association;

(5) one public member selected by the Telephone Association of Vermont;

(6) two public members appointed by the Governor, who shall not be employees or officers of the State at the time of appointment;

(7) one member of the House of Representatives appointed by the Speaker of the House; and

(8) one member of the Senate appointed by the Senate Committee on Committees.

(c) In making appointments of public members, the appointing authorities shall give consideration to citizens of the State with knowledge of communications technology; communications law and policy; broadband deployment in rural, high-cost areas; finance; and electric utility law and policy.

(d) The public members shall serve terms of three years beginning on February 1 of the year of appointment. However, the public members first appointed by the Governor shall serve initial terms of one year; and the
members first appointed by the Speaker of the House and the Committee on
Committees shall serve initial terms of two years. A vacancy occurring among
the public members shall be filled by the respective appointing authority for
the balance of the unexpired term. A member may be reappointed.

(e) The Authority’s powers are vested in the Board of Directors. The
Governor shall appoint the Chair with the advice and consent of the Senate.
The Chair shall serve as the Chief Executive Officer of the Authority. The
Chair shall be a State employee, shall be exempt from the State classified
system, and shall receive compensation equal to that of a Superior judge.

(f) Meetings shall be held at the call of the Chair or at the request of five
members. A majority of sitting members shall constitute a quorum, and action
taken by the Board under the provisions of this chapter may be authorized by a
majority of the members present and voting at any regular or special meeting.

(g) Members other than ex officio members and the Chair shall be entitled
to per diem authorized under 32 V.S.A. § 1010 for each day spent in the
performance of their duties and each member shall be reimbursed from the
Fund for his or her reasonable expenses incurred in carrying out his or her
duties under this chapter.

(h) In addition to serving as the Chair of the Board, the Chief Executive
Officer shall direct and supervise the Authority’s administrative affairs and
technical activities in accordance with any rules and policies set forth by the Authority. In addition to any other duties, the Chief Executive Officer shall:

(1) attend all meetings of the Authority, act as its secretary, and keep minutes of its proceedings;

(2) approve all accounts of the Authority, including accounts for salaries, per diems, and allowable expenses of any employee or consultant thereof and expenses incidental to the operation of the Authority;

(3) make recommendations to the Board for financial awards or assistance authorized by this chapter, including grants and loans;

(4) update the Board on actions of the Authority and such other reports as the Authority may request; and

(5) perform such other duties as may be directed by the Board in the carrying out of the purposes and provisions of this chapter.

(i) The Authority may employ technical experts and other officers, agents, and employees as are necessary to effect the purposes of this chapter and may fix the qualifications, duties, and compensation.

§ 8083. VERMONT TELECOMMUNICATIONS FUND

There is created a special fund in the State Treasury to be known as the “Vermont Telecommunications Fund.” The Fund shall be administered by the Authority and expenditures therefrom shall only be made to implement and effectuate the policies, purposes, and programs of this chapter. The Fund shall
be composed of any monies from time to time appropriated to the Fund by the
General Assembly or received from any other source, private or public,
approved by the Authority. Unexpended balances and any earnings shall
remain in the Fund for use in accord with the purposes of this chapter.

§ 8084. GENERAL POWERS AND DUTIES; CONFIDENTIALITY

(a) The Authority shall have all the powers necessary and convenient to
carry out and effectuate the purposes and provisions of this chapter, including
those general powers provided to a business corporation by Title 11A and
those general powers provided to a nonprofit corporation by Title 11B and
including, without limitation of the general powers under Title 11A and 11B,
the power to:

(1) serve as the statewide coordinator of mobile telecommunications and
broadband access and adoption initiatives;

(2) develop and implement creative and innovative financing and
investment strategies to facilitate universal broadband access; the universal
availability of mobile telecommunication services, including voice and high-
speed data along roadways; and near universal availability statewide;

(3) provide resources to broadband and mobile telecommunications
providers in the form of administrative and technical support as well as
through grants, loans, and other forms of financial assistance consistent with
the purposes and provisions of the chapter;
(4) administer the High-Cost Program and the Connectivity Initiative established in chapter 88 of this title.

(5) facilitate partnerships and collaborations among and between State entities, nonprofit organizations, municipalities, the federal government, and the private sector;

(6) receive and accept grants, gifts, loans, or contributions from any source subject to the provisions of 32 V.S.A. § 5 and for the purpose carrying out the purposes of this chapter;

(7) when authorized by one or more mobile telecommunications or broadband providers, apply for grants, loans, permits, licenses, certificates, or approvals, or enter into contractual arrangements for goods or services on behalf of or jointly with a mobile telecommunications or broadband provider or providers;

(8) consult with the Vermont Economic Development Authority and the Vermont Municipal Bond Bank regarding the financing of mobile telecommunications and broadband projects;

(9) consult with agencies and departments regarding the establishment or modification of taxes and fees applicable to communications providers, including the establishment of criteria for the waiver of such taxes and fees when providers offer to furnish comparable value to the State to meet the public good;
(10) assist providers with pursuing route identification for fiber-optic infrastructure and with obtaining pole surveys and negotiating pole attachments, as appropriate;

(11) identify and publish State, federal, nonprofit, and any other funding opportunities and assist communications providers with completing grant and loan applications;

(12) construct, install, own, acquire, sell, trade, and lease equipment, facilities, and other infrastructure that could be accessed and used by multiple service providers, the State, and local governments, including fiber optic cables, towers, shelters, easements, rights-of-way, and wireless spectrum of frequencies, provided that any agreement by the Authority to sell infrastructure that is capable of use by more than one service provider shall contain conditions that will ensure continued shared use or colocation at reasonable rates, and provided that the proposed activity will not be in areas served by existing providers with comparable levels of broadband quality and speed or mobile telecommunications service;

(13) consistent with the availability of resources for such purpose, create and maintain comprehensive, accurate, and reliable mobile telecommunications and broadband service availability maps;

(14) create and maintain an inventory of pole data;
(15) develop the State’s Telecommunications Plan required by section 202d of this title and subject to the provisions in subsection (c) of this section;

(16) serve as the state entity responsible for ensuring that Vermont’s mobile telecommunications and broadband networks are planned, managed, and examined to ensure they are secure, resilient, and designed to reinforce emergency preparedness with regard to outages, cybersecurity or terrorist threats, natural disasters, weather events, and any other potential perils;

(17) adopt rules in accordance with 3 V.S.A. chapter 25 for the purpose of administering the provisions of this chapter; and

(18) do any and all things necessary or convenient to effectuate the purposes and provisions of this chapter and to carry out its purposes and exercise the powers given and granted in this chapter.

(b) Any records or information produced or acquired by the Authority, or produced or acquired by an entity engaged in a project funded in whole or in part pursuant to this chapter, that are trade secrets or confidential business information shall be exempt from public inspection and copying pursuant to 1 V.S.A. 317(c)(9).

(c) It is imperative that the State has an up-to-date and comprehensive Telecommunications Plan to inform State policy decisions. It is the intent of the General Assembly to ensure the Authority has the time and resources needed to develop the State’s Telecommunications Plan as required under
section 202d of this title. Accordingly, the Chair shall notify the relevant legislative standing committees of jurisdiction as soon as reasonably practicable if additional time or resources are needed to complete the Plan as statutorily required. Failure to comply with the requirements of this subsection shall be taken into consideration by the full Senate at a subsequent confirmation hearing of the Chair.

§ 8085. COMMUNICATIONS INFRASTRUCTURE REVOLVING LOAN PROGRAM

(a) The Authority shall establish the Communications Infrastructure Revolving Loan Program. The purpose of the Program is to provide a continuous source of capital for mobile telecommunications and broadband projects, particularly for start-up and expansion of networks. The Program shall offer financing consistent with the funding parameters established in section 8086 of this chapter and the availability of funds in the Vermont Telecommunications Fund established in section 8083 of this chapter. Such financing may take the form of credit enhancements, loan loss reserves, subordinated debt, and any other financing mechanisms and incentives consistent with the Program’s purpose, including the provision of equity necessary to secure lending from other entities. Loans under this Program shall be made upon such terms and conditions as may reasonably be expected to be fulfilled by the borrower.
(b) It is the intent of the General Assembly that this Program is used to provide financing to projects that might not otherwise have access to capital initially but that demonstrate an economically sustainable business model and that ultimately will be eligible for private or municipal financing.

§ 8086. FUND ALLOCATIONS; ELIGIBILITY; REQUIREMENTS

(a) Notwithstanding any provision of law to the contrary, entities eligible for broadband funding under this chapter or through a program administered by the Authority are:

(1) communications union districts;

(2) small eligible telecommunications carriers as defined in section 227d of this title;

(3) electric cooperatives; and

(4) any other Internet service provider, if the Authority determines such provider’s proposed broadband project is consistent with the policies and purposes of this chapter and is otherwise in the best interest of the State.

(b) Nothing in this section shall preclude funding of a broadband project that involves an eligible entity that partners with an ineligible entity, or that involves more than one eligible entity applying jointly for funding.

(c) Projects eligible for funding under this chapter shall:

(1) if they are for broadband service, support service that provides minimum broadband speeds of 25 Mbps download and 3 Mbps upload and that
are capable of being upgraded to meet the State’s broadband goal established
in subdivision 202c(b)(10) of this title; and

(2) if they are for mobile telecommunications or broadband service,
ensure that any infrastructure funded in whole or in part with State funds under
this chapter shall be available for the benefit of multiple service providers on a
nondiscriminatory basis and at rates deemed reasonable by the Authority.

§ 8087. BROADBAND CORPS

(a) The Authority shall establish a Broadband Corps to assist with
infrastructure and service deployment, perform outreach and direct technical
support to Vermonters becoming familiar with their broadband connections
and devices, and provide support for ensuring that Vermonters with low
income can take advantage of broadband subsidies and other support programs.
In developing the Corps, the Authority shall seek opportunities for leveraging
federal or private funding as well as national service programs such as the
National Community Conservation Corps.

(b) The Broadband Corps established under this section shall cease to exist
on July 1, 2024.

§ 8088. INTERAGENCY COOPERATION AND ASSISTANCE

(a) Other departments and agencies of State government, including the E-
911 Board, shall assist and cooperate with the Authority and shall make
available to it information and data as needed to assist the Authority in
carrying out its duties. The Secretary of Administration shall establish protocols and agreements among the Authority and departments and agencies of the State for this purpose. Nothing in this section shall be construed to waive any privilege or protection otherwise afforded to the data and information under exemptions to the public records act or under other laws due solely to the fact that the information or data is shared with the Authority pursuant to this section.

(b) No instrumentality of the State shall sell, lease, or otherwise divest itself of ownership or control of radio frequency spectrum without prior notice to and approval of the General Assembly or, if the General Assembly is not in session, without prior notice to the Chairs of the House Committee on Energy and Technology and the Senate Committees on Finance and on Economic Development, Housing and General Affairs and approval of the Joint Fiscal Committee, in consultation with the legislative Chairs already referenced in this subsection.

§ 8089. ANNUAL AND QUARERLY REPORTS

(a) Annual report. On or before January 15 of each year, the Authority shall submit a report of its activities pursuant to this chapter for the preceding year to the Senate Committee on Finance, the House Committee on Energy and Technology, and the Joint Information Technology Oversight Committee. The report shall include an operating and financial statement covering the
Authority’s operations during the year, including a summary of all grant
awards and contracts and agreements entered into by the Authority. In its
annual report submitted in 2022, the Authority shall include any
recommendations related to State policy and planning it deems appropriate,
and also shall include a specific recommendation regarding a reasonable
timeframe for achieving the State’s goal of 100 Mbps symmetrical service at
all Vermont locations as required by 30 V.S.A. § 202c(b)(10).

(b) Quarterly report. Within 30 days of the end of each quarter, the
Authority shall submit a report of its activities for the preceding quarter to the
Joint Information Technology Oversight Committee. Each report shall include
the following:

(1) a description of all Authority activities to develop or facilitate
development of telecommunications infrastructure that furthers the objectives
of this chapter;

(2) financial statements of the Authority, a summary of expenditures by
the Authority since inception, and a forecast of expenditures;

(3) a summary of any financial commitments made by the Authority;

(4) a list and summary of all contracts and agreements entered into by
the Authority;

(5) a current business plan for the Authority, including an explanation of
significant changes subsequent to the most recent previous report; and
(6) identification of the impact of its activities on existing mobile
telecommunications and Internet service providers.

§ 8089a. SUNSET; TRANSFER PLAN

(a) The Authority shall cease to exist on July 1, 2026.

(b) As part of its annual report submitted on or before January 15, 2026, the
Authority shall develop a plan for transferring its assets, liabilities, and legal
and contractual obligations to another appropriate State entity. The Authority
may include in its report a recommendation regarding the continued existence
of the Authority beyond its statutory sunset date.

Sec. 2. ORGANIZATIONAL MEETING; SPACE ALLOCATION;
TRANSITIONAL PROVISIONS

(a) Within 60 days of the effective date of this act, the Vermont
Telecommunications Authority Board of Directors shall hold its initial
organizational meeting. The Commissioner of Public Service shall serve as the
Chair until a Chief Executive Officer is hired. The Department of Public
Service shall provide administrative support to the Authority for 180 days
commencing on the date of the Authority’s initial organizational meeting,
which shall be paid for from the Vermont Telecommunications Fund
established in Sec. 1 of this act.
(b) Within 60 days of the effective date of this act, the Commissioner of Buildings and General Services shall allocate space for the Vermont Telecommunications Authority established in Sec. 1 of this act.

(c) Within 60 days of the effective date of this act, the Commissioner of Public Service shall develop a plan for transferring positions, programs, assets, liabilities, funding sources, and legal and contractual obligations from the Department of Public Service to the Authority. The Commissioner shall present the plan to the Authority at its initial organizational meeting. The Authority shall revise the plan as it deems appropriate and shall present the plan to the Joint Fiscal Committee for approval.

Sec. 3. REPEAL

30 V.S.A. § 202f (Telecommunications and Connectivity Advisory Board) is repealed.

* * * CUDs; Public Records Act; Trade Secret Exemption * * *

Sec. 4. 30 V.S.A. § 3084 is added to read:

§ 3084. CONFIDENTIALITY

The purpose of this section is to clarify that any records or information produced or acquired by a district that are trade secrets or confidential business information shall be exempt from public inspection and copying pursuant to 1 V.S.A. 317(c)(9). A district may share such information with the Vermont Telecommunications Authority, the Vermont Communications Union District
Authority, or with a private partner or contractor for the purpose of developing
and constructing broadband projects, provided that the recipient agrees to
maintain the confidentiality and privileged status of the document, material, or
other information. Such records or information shall be available for public
inspection after project completion.

** Study; VTA Bonding Authority **

Sec. 5. STUDY; VTA BONDING AUTHORITY

The Vermont Telecommunications Authority shall study the opportunities
and risks associated with its potential ability to issue revenue bonds to support
broadband and mobile telecommunications deployment in Vermont. The
Authority shall report its findings and recommendations to the General
Assembly on or before December 15, 2022, and shall update its findings and
recommendations annually thereafter.

** Appropriation **

Sec. 6. FISCAL YEAR 2021 ONE-TIME GENERAL FUND APPROPRIATION

In fiscal year 2021, the amount of $20,000,000.00 is appropriated from the
General Fund to the Vermont Telecommunications Fund established in Sec. 1
of this act to support the activities of the Vermont Telecommunications
Authority established in Sec. 1 of this act.
Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.