

1 Introduced by Committee on Energy and Technology

2 Date:

3 Subject: Communications; broadband deployment; communications union
4 districts; Vermont Community Broadband Authority

5 Statement of purpose of bill as introduced: This bill proposes to coordinate,
6 facilitate, and support accelerated community broadband deployment
7 throughout Vermont.

8 An act relating to accelerated community broadband deployment

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

10 * * * Legislative Findings and Intent * * *

11 Sec. 1. FINDINGS AND INTENT

12 (a) The General Assembly finds that:

13 (1) For over a decade, Vermont has pursued many approaches and
14 strategies designed to ensure that every Vermonter has access to reliable,
15 affordable, high-speed broadband.

16 (2) In 2018, through Acts and Resolves No. 169, the General Assembly
17 found that broadband is essential for supporting economic and educational
18 opportunities, strengthening health and public safety networks, and reinforcing
19 freedom of expression and democratic, social, and civic engagement.

1 (3) We further found in Act No. 169 that the lack of a thriving
2 competitive market in Vermont, particularly in isolated locations,
3 disadvantages the ability of consumers and businesses to protect their interests
4 sufficiently, and we recognized that the State may exercise its traditional role
5 in protecting consumers.

6 (4) In 2019, through Acts and Resolves No. 79, the General Assembly
7 found that despite the FCC’s “light-touch” regulatory approach under Title I of
8 the Communications Act of 1934, rather than “utility-style” regulation under
9 Title II, existing broadband providers are not providing adequate service to
10 many rural areas where fewer potential customers reduce the profitability
11 necessary to justify network expansion.

12 (5) Accordingly, reaching the last mile will require a grassroots
13 approach founded on input from and support of local communities. Existing
14 broadband grant programs do not offer the scale to solve this problem, and
15 traditional capital sources typically shy away from businesses with limited
16 revenue history and little equity or collateral.

17 (6) To this end, public investment in programs and personnel that
18 provide local communities with much-needed resources and technical
19 assistance is required.

20 (7) In 2020, the COVID-19 public health emergency served as an
21 accelerant to the socioeconomic disparities between the connected and the

1 unconnected in our State. Vermonters who cannot access or cannot afford
2 broadband, many of whom are geographically isolated, face challenges with
3 respect to distance learning; remote working; accessing telehealth services; and
4 accessing government programs and services, including our institutions of
5 democracy, such as the court system.

6 (8) Indeed, the ongoing public health emergency has highlighted the
7 extent to which robust and resilient broadband networks are critical to our
8 economic future as a whole and provide a foundation for our educational,
9 health care, public health and safety, and democratic institutions.

10 (9) Broadband infrastructure is critical infrastructure fundamental to
11 accessing other critical services in sectors such as energy, public safety,
12 government, healthcare, education, and commerce.

13 (10) The goal of universal broadband needs to be elevated as a top
14 priority of the State to meet the economic, health, safety, and social needs of
15 Vermonters.

16 (11) While private broadband providers have brought broadband
17 services to many households, businesses, and locations in Vermont, significant
18 gaps remain.

19 (12) When existing broadband providers fail to achieve the goal of
20 providing reliable, high-quality, universal broadband, it is imperative for the

1 State to support and facilitate the construction of broadband infrastructure
2 through financial and other means.

3 (13) Communications union districts (CUDs) were created by the State
4 to coordinate and implement creative and innovative solutions in their
5 respective territories, particularly where existing providers are not providing
6 adequate service that meets the needs of their residents and businesses while
7 ensuring public accountability.

8 (14) CUDs are thus positioned to be the unofficial “provider of last
9 resort” for broadband and ensure public accountability for serving all
10 Vermonters within their respective service territories. Yet CUDs have limited
11 access to financial capital necessary for expansion of broadband to unserved
12 and underserved areas of the State.

13 (15) All Vermont electric ratepayers are supporting the rollout of clean
14 energy technologies, however not all ratepayers are able to access those
15 technologies because they do not have access to adequate broadband. Equity
16 in the energy sector requires universal broadband.

17 (16) The Department of Public Service simultaneously plays a
18 regulatory role in the telecommunications market while also supporting the
19 development of CUDs in an unregulated competitive broadband market.

20 (17) To ensure universal broadband in Vermont, there is a need for
21 greater coordination of grassroots broadband solutions both among the CUDS

1 themselves and also with respect to their other potential partners, such as
2 electric distribution utilities, nonprofit organizations, the federal government,
3 and private broadband providers.

4 (b) Therefore, this act is intended to protect the public interest by:

5 (1) ensuring broadband availability to all Vermonters and Vermont
6 addresses and

7 (2) ensuring public accountability for maintaining and upgrading critical
8 broadband infrastructure;

9 (3) increasing the reliability of the electric grid and ensuring equal
10 access to clean energy services among all electric ratepayers;

11 (4) protecting Vermonters' privacy and unrestricted access to the
12 Internet;

13 (5) alleviating the inherent tension the Department of Public Service
14 currently experiences as a result of its dual roles as both regulator and
15 community project developer;

16 (6) directing public resources to the development of public broadband
17 assets intended to provide universal access;

18 (7) developing favorable taxing, financing, and regulatory mechanisms
19 to support communications union districts; and

20 (8) providing time-limited leadership for coordinating the buildout of
21 Vermont's communications union districts and their partners and for

1 developing financing mechanisms to fully support that buildout through a
2 newly created State entity, the Vermont Community Broadband Authority,
3 designed specifically to effectuate these purposes.

4 * * * Vermont Community Broadband Authority * * *

5 Sec. 2. 30 V.S.A. chapter 91A is added to read:

6 CHAPTER 91A: VERMONT COMMUNITY BROADBAND AUTHORITY

7 § 8081. POLICY, FINDINGS, AND PURPOSE

8 (a) Policy. It is the policy of the State of Vermont to support and accelerate
9 community efforts that advance the State’s goal of achieving universal access
10 to reliable, high-quality, affordable broadband.

11 (b) Findings. Broadband is an essential service unavailable to many
12 Vermonters. Federal policies that promote an unregulated, competitive
13 broadband market have failed to deliver this essential service in many rural
14 areas of the State. In addition, federal programs designed to subsidize the
15 buildout of broadband in rural areas fall far short of delivering broadband to
16 the most remote regions of our State, often as a result of inadequate federal
17 broadband mapping data or insufficient accountability. As a consequence,
18 many locations in Vermont continue to lack access to broadband, and a
19 comprehensive funded solution through existing federal and State broadband
20 programs is not available to address this critical need we face in Vermont.
21 Despite these challenges, local communities have assembled in the form of

1 communications union districts to address the digital divide collectively and
2 creatively. These local projects, and ultimately all Vermonters, will benefit
3 from the establishment of robust statewide leadership and support for
4 community broadband solutions.

5 (c) Purpose. It is the purpose of this chapter to establish the Vermont
6 Community Broadband Authority to coordinate, facilitate, and support
7 accelerated community broadband solutions.

8 § 8082. DEFINITIONS

9 As used in this chapter:

10 (1) “Authority” means the Vermont Community Broadband Authority
11 established by this chapter.

12 (2) “Board” means the Board of Directors of the Vermont Community
13 Broadband Authority.

14 (3) “Connectivity Initiative” means the initiative established under
15 section 7515b of this title.

16 (4) “Department” means the Department of Public Service.

17 (5) “Division” means the Division for Telecommunications and
18 Connectivity within the Department of Public Service.

19 (6) “Fund” means the Vermont Community Broadband Fund established
20 by this chapter.

1 (7) “Underserved” has the same meaning as in subsection 7515b(a) of
2 this title.

3 (8) “Unserved” has the same meaning as in subsection 7515b(a) of this
4 title.

5 § 8083. ESTABLISHMENT AND ORGANIZATION

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

10 (b) The Authority shall have a Board of Directors of 11 members as
11 follows:

12 (1) the Commissioner of Public Service or designee;

13 (2) the Secretary of Commerce and Community Development or
14 designee;

15 (3) three public members representing communications union districts
16 selected by the Vermont Communications Union District Association;

17 (4) four public members appointed by the Governor, who may not be
18 employees or officers of the State at the time of appointment;

19 (5) one public member appointed by the Speaker of the House, who
20 shall not be a member of the General Assembly at the time of the appointment;

21 and

1 (6) one public member appointed by the Senate Committee on
2 Committees, who shall not be a member of the General Assembly at the time
3 of the appointment.

4 (c) In making appointments of public members, the appointing authorities
5 shall give consideration to citizens of the State with knowledge of
6 communications technology, communications law and policy, finance, and
7 electric utility law and policy.

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

15 (e) The Authority's powers are vested in the Board of Directors. Annually,
16 the Board shall elect from among its public members a chair and vice chair.
17 The Board may elect officers as it may determine. Meetings shall be held at
18 the call of the Chair or at the request of three members. A majority of sitting
19 members shall constitute a quorum and action taken by the Board under the
20 provisions of this chapter may be authorized by a majority of the members
21 present and voting at any regular or special meeting.

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

6 (g) The Authority shall hire and employ an Executive Director who shall
7 serve as the Authority’s chief administrative officer and shall direct and
8 supervise the Authority’s administrative affairs and technical activities in
9 accordance with any rules and policies set forth by the Authority. In addition
10 to any other duties, the Executive Director shall:

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

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

16 (3) make an annual report to the Authority documenting the actions of
17 the Authority and such other reports as the Authority may request; and

18 (4) perform such other duties as may be directed by the Authority in the
19 carrying out of the purposes and provisions of this chapter.

20 (h) The Authority may employ technical experts and other officers, agents,
21 and employees as are necessary to effect the purposes of this chapter and may

1 fix their qualifications, duties, and compensation. [The Authority shall use the
2 Office of the Attorney General for legal services].

3 § 8084. VERMONT COMMUNITY BROADBAND FUND

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

12 § 8085. GENERAL POWERS AND DUTIES

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

19 (1) coordinate and facilitate community broadband efforts and to
20 provide resources to communications union districts in the form of technical

1 support as well as through grants under the Connectivity Initiative and the
2 Community Broadband Innovation Grant Program;

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

6 (3) transfer State fiber-optic assets to the communications union district
7 in which those assets are located;

8 (4) consult with the Vermont Economic Development Authority and the
9 Vermont Municipal Bond Bank with regard to financing community
10 broadband projects;

11 (5) consult with agencies and departments regarding the establishment
12 or modification of taxes and fees applicable to broadband providers, including
13 the establishment of criteria for the waiver of such taxes and fees when
14 providers offer to furnish comparable value to the State to meet the public
15 good;

16 (6) assist communications union districts with pursuing route
17 identification for fiber-optic infrastructure and with obtaining pole surveys and
18 negotiating pole attachments;

19 (7) identify and publish federal, nonprofit, and any other broadband
20 funding opportunities and assist communications union districts with
21 completing grant and loan applications;

1 (8) do any and all things necessary or convenient to effectuate the
2 purposes and provisions of this chapter and to carry out its purposes and
3 exercise the powers given and granted in this chapter; and

4 (9) issue rules in accordance with 3 V.S.A. chapter 25 for the purpose of
5 administering the provisions of this chapter;

6 § 8086. COMMUNITY BROADBAND INNOVATION GRANT

7 PROGRAM

8 (a) There is established the Community Broadband Innovation Grant
9 Program to be administered by the Authority. The purpose of the Program is
10 to fund feasibility studies related to the deployment of broadband in rural
11 unserved and underserved areas of Vermont. The following conditions shall
12 apply to the Program:

13 (1) In awarding grants under this section, the Authority shall give
14 preference to feasibility studies that contemplate the provision of broadband
15 service that is symmetrical.

16 (2) Eligible grant applicants shall include communications union
17 districts.

18 (3) Grantees shall produce an actionable business plan for a potential
19 broadband solution, which may include formation of or partnership with an
20 electric company, rural economic development infrastructure district,
21 municipal communications plant, or any other broadband provider. The

1 business plan required by this subdivision shall include preconstruction
2 engineering and design plans, financing models, estimated construction costs,
3 and ideal operational models.

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

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

7 (6) Studies funded through the Program shall conclude within 12
8 months of receipt of the award.

9 (7) The Authority shall retain 50 percent of the grant award until it
10 determines that the study has been completed consistent with the terms of the
11 grant.

12 (8) A grant recipient shall report its findings and recommendations to
13 the Authority within 30 days following the completion of a study funded under
14 the Program.

15 (b) To the extent such information is available, the Authority shall
16 aggregate the information submitted under subdivision (a)(9) of this section
17 and shall report its findings and recommendations in the annual report required
18 under section 8087 of this chapter.

19 (c) The Community Broadband Innovation Grant Program is the successor
20 to the Broadband Innovation Grant Program established by 2019 Acts and
21 Resolves No. 79, Sec. 10, and any funds remaining in that program shall be

1 transferred to the Vermont Community Broadband Fund to support the
2 Community Broadband Innovation Grant Program established in this chapter.

3 § 8087. ANNUAL REPORT

4 Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the
5 Authority shall submit a report of its activities pursuant to this chapter for the
6 preceding year to the Senate Committee on Finance, the House Committee on
7 Energy and Technology, and the Joint Information Technology Oversight
8 Committee. Each report shall include an operating and financial statement
9 covering the Authority’s operations during the year, including a summary of
10 all grant awards and contracts and agreements entered into by the Authority.

11 § 8088. SUNSET

12 The Authority shall cease to exist July 1, 2026.

13 Sec. 3. REPEALS

14 The following provisions of law are repealed:

15 (1) 2019 Acts and Resolves No. 79, Sec. 10 (Broadband Innovation
16 Grant Program).

17 (2) 2020 Acts and Resolves No. 154, Sec. B1105.2 (amending the
18 Broadband Innovation Grant Program).

19 Sec. 4. TRANSFER OF ASSETS

20 On or before July 1, 2021, the Department of Public Service shall transfer
21 ownership of its fiber-optic assets to the communications union district in

1 which those assets are located. The transfer shall include a requirement that,
2 upon the dissolution of a communications union district, any such fiber assets
3 shall become the property of the State to be managed by the Vermont
4 Community Broadband Authority or the Department of Public Service if the
5 Authority no longer exists.

6 Sec. 5. 30 V.S.A. § 7516(b) is amended to read:

7 (b) Of the money transferred to the Connectivity Fund pursuant to
8 subsection 7523(b) of this title, up to ~~\$120,000.00~~ \$240,000.00 shall be
9 appropriated annually to the ~~Department of Public Service~~ Vermont
10 Community Broadband Authority to fund the operational expenses of the
11 Authority, including a Rural Broadband Technical Assistance Specialist whose
12 duties shall include providing outreach, technical assistance, and other support
13 services to communications union districts established pursuant to chapter 82
14 of this title ~~and other units of government, nonprofit organizations,~~
15 ~~cooperatives, and for-profit businesses~~ for the purpose of expanding broadband
16 service to unserved and underserved locations. Support services also may
17 include providing business ~~model templates for various approaches~~ plan
18 development that reflects local preferences, including formation of or
19 partnership with a ~~cooperative, a communications union district,~~ a rural
20 economic development infrastructure district, an electric utility, or a new or
21 existing ~~Internet service~~ broadband provider as operator of the network. Any

1 remaining funds shall be used to support the Connectivity Initiative established
2 under section 7515b of this title.

3 Sec. 6. 30 V.S.A. § 202f is amended to read:

4 *[Telecommunications and Connectivity Advisory Board continues to advise*
5 *the Department of Public Service on policy and planning, not Connectivity*
6 *Initiative grants, which will now be administered by the Vermont Community*
7 *Broadband Authority.]*

8 Sec. 7. APPROPRIATION/FUNDING SOURCE

9 [TBD]

10 * * * Connectivity Initiative; Communications Union Districts * * *

11 Sec. 8. 30 V.S.A. § 7515b is amended to read:

12 § 7515b. CONNECTIVITY INITIATIVE

13 (a) The Connectivity Initiative shall be administered by the Vermont
14 Community Broadband Authority. The purpose of the Connectivity Initiative
15 is to provide each service location in Vermont access to ~~Internet service~~
16 broadband that is capable of speeds of at least ~~25 Mbps download and 3 Mbps~~
17 ~~upload, or the FCC speed requirements established under Connect America~~
18 ~~Fund Phase II, whichever is higher, beginning with locations not served as of~~
19 ~~December 31, 2013 according to the minimum technical service characteristic~~
20 ~~objectives applicable at that time~~ 100 Mbps symmetrical. Within this category
21 of service locations, priority shall be given first to unserved and then to

1 underserved locations. As used in this section, “unserved” means a location
2 ~~having access to only satellite or dial-up Internet service~~ that only has access to
3 broadband capable of speeds of less than 4 Mbps download and 1 Mbps upload
4 and “underserved” means a location ~~having access to Internet service with~~
5 ~~speeds that exceed satellite and dial-up speeds but are less than~~ that only has
6 access to broadband capable of speeds of at least 4 Mbps download and 1
7 Mbps upload but less than 25 Mbps download and 3 Mbps upload. Any new
8 services funded in whole or in part by monies from this Initiative shall be
9 capable of being continuously upgraded to reflect the best available, most
10 economically feasible service capabilities. [*open access requirement TBD*]

11 (b) The Department of Public Service shall publish annually a list of ~~eensus~~
12 ~~blocks~~ E-911 locations eligible for funding based on the Department’s most
13 recent broadband mapping data. The ~~Department~~ Vermont Community
14 Broadband Authority annually shall solicit proposals from ~~service providers~~
15 communications union districts to deploy broadband to eligible ~~eensus blocks~~
16 E-911 locations. Funding shall be available for [*capital improvements only,*
17 *not for operating and maintenance expenses*]. The ~~Department~~ Authority shall
18 give priority to proposals that reflect the lowest cost of providing services to
19 unserved and underserved locations; however, the ~~Department~~ Authority also
20 shall consider:

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

10 (c) In order to ensure that grants are disbursed based on the value of work
11 completed, the Authority shall develop with each grantee a payment schedule
12 that reflects the verified percentage of project completion. To verify project
13 completion, the grantee shall retain an Authority-approved third party to
14 conduct independent field testing, which the Authority may supplement with
15 provider-supplied data and crowd-sourced user data. If deemed necessary by
16 the Authority, the Authority may advance a grantee funds necessary for project
17 commencement. The Authority shall retain five percent of an award for two
18 years after project completion to ensure continued compliance with contract
19 terms. A grantee shall reimburse the Authority any funds received for
20 contracted work that is not completed pursuant to contract specifications.

1 (d) The Authority shall maintain a publicly accessible inventory of
2 completed broadband projects financed in whole or in part with grants under
3 this section.

4 * * * VEDA; Broadband Expansion Loan Program; Lending Capacity * * *

5 Sec. 9. 10 V.S.A. § 280ee is amended to read:

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 to communications union districts that
10 expand broadband service to unserved 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~~ communications union
20 districts to expand broadband availability in unserved and underserved
21 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 \$8,000,000.00;

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

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

11 (D) interest and principal may be deferred up to ~~two~~ three years;

12 (E) a maximum of ~~\$10,800,000.00~~ \$36,000,000.00 in Authority loans
13 may be made under the Program commencing on June 20, 2019; and

14 (F) the ~~provider~~ communications union district shall offer to all
15 customers broadband service that is capable of speeds of at least 100 Mbps
16 symmetrical.

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

1 (d) On or before January 1, 2020, and annually thereafter, the Authority
2 shall submit a report of its activities pursuant to this section to the Senate
3 Committee on Finance and the House Committees on Commerce and
4 Economic Development and on Energy and Technology. Each report shall
5 include operating and financial statements for the two most recently concluded
6 State fiscal years. In addition, each report shall include information on the
7 Program portfolio, including the number of projects financed; the amount,
8 terms, and repayment status of each loan; and a description of the broadband
9 projects financed in whole or in part by the Program.

10 Sec. 10. 10 V.S.A. § 280ff is amended to read:

11 § 280ff. FUNDING

12 (a) The State Treasurer, in consultation with the Secretary of
13 Administration, shall negotiate an agreement with the Authority incorporating
14 the provisions of this section and consistent with the requirements of this
15 subchapter.

16 (b) ~~Repayment or appropriation~~ State appropriations to the Authority ~~in~~
17 ~~years 2021 and until the Program terminates is~~ are based on the Authority's
18 contributions to loan loss reserves for the Program in accordance with
19 generally accepted accounting principles. Any difference between the actual
20 loan losses incurred by the Authority in a fiscal year ~~2020 through Program~~
21 ~~termination~~ shall be adjusted in the following year's appropriation.

1 (1) ~~The Program shall terminate when all borrowers enrolled in the~~
2 ~~Program have repaid in full or loans have been charged off against the reserves~~
3 ~~of the Authority.~~

4 (2) ~~Upon termination of the Program, any remaining funds held by the~~
5 ~~Authority and not used for the Program shall be repaid to the State~~ This is a
6 revolving loan program.

7 (3)~~(2)~~ The accumulated total of the appropriation shall not exceed
8 ~~\$8,500,000.00 over the life of the Program~~ \$27,000,000.00.

9 (4)~~(3)~~ The Authority shall absorb its historical loan loss reserve rate
10 before any State funds are expended.

11 (5)~~(4)~~ Additionally, the Authority shall absorb up to ~~\$3,000,000.00~~
12 \$9,000,000.00 in Program losses shared with the State on a pro rata basis.

13 Sec. 11. FISCAL YEAR 2022 ONE-TIME GENERAL FUND

14 APPROPRIATION

15 To the Vermont Economic Development Authority, \$1,260,000.00 is
16 appropriated to serve as loan reserves to administer the Broadband Expansion
17 Loan Program and to enable the Authority to provide credit enhancements to
18 assist communications union districts with securing financing through other
19 lenders.

20 Sec. 12. 10 V.S.A. § 219(d) is amended to read:

1 (d) In order to ensure the maintenance of the debt service reserve
2 requirement in each debt service reserve fund established by the Authority,
3 there may be appropriated annually and paid to the Authority for deposit in
4 each such fund, such sum as shall be certified by the Chair of the Authority, to
5 the Governor, the President of the Senate, and the Speaker of the House, as is
6 necessary to restore each such debt service reserve fund to an amount equal to
7 the debt service reserve requirement for such fund. The Chair shall annually,
8 on or about February 1, make, execute, and deliver to the Governor, the
9 President of the Senate, and the Speaker of the House, a certificate stating the
10 sum required to restore each such debt service reserve fund to the amount
11 aforesaid, and the sum so certified may be appropriated, and if appropriated,
12 shall be paid to the Authority during the then current State fiscal year. The
13 principal amount of bonds or notes outstanding at any one time and secured in
14 whole or in part by a debt service reserve fund to which State funds may be
15 appropriated pursuant to this subsection shall not exceed ~~\$181,000,000.00~~
16 \$193,000,000.00, provided that the foregoing shall not impair the obligation of
17 any contract or contracts entered into by the Authority in contravention of the
18 Constitution of the United States.

19 Sec. 13. 30 V.S.A. § 8064(a)(1) is amended to read:

20 (a)(1) The Authority may issue its negotiable notes and bonds in such
21 principal amount as the Authority determines to be necessary to provide

1 sufficient funds for achieving any of its corporate purposes, including the
2 payment of interest on notes and bonds of the Authority, establishment of
3 reserves to secure the notes and bonds including the reserve funds created
4 under section 8065 of this title, and all other expenditures of the Authority
5 incident to and necessary or convenient to carry out its corporate purposes and
6 powers. However, the bonds or notes of the Authority outstanding at any one
7 time shall not exceed ~~\$34,000,000.00~~ \$22,000,000.00. No bonds shall be
8 issued under this section without the prior approval of the Governor and the
9 State Treasurer or their respective designees. In addition, before the Authority
10 may initially exercise its bonding authority granted by this section, it shall
11 submit to the Emergency Board of the State a current business plan, including
12 an explanation of the bond issue or issues initially proposed.

13 * * * CUD; Public Records Act; Trade Secret Exemption; Clarification * * *

14 Sec. 14. 30 V.S.A. § 3084 is added to read:

15 § 3084. CONFIDENTIALITY; LEGISLATIVE INTENT

16 The purpose of this section is to clarify that any records or information
17 produced or acquired by a district that are trade secrets or confidential business
18 information shall be exempt from public inspection and copying pursuant to 1
19 V.S.A. 317(c)(9). Such records or information shall be available for public
20 inspection after project completion.

1 Electric utility poles, lines, and fixtures owned by nonmunicipal utilities
2 shall be taxed at appraisal value as defined by section 3481 of this title, except
3 as provided under subdivisions 3802(19) and (20) of this title.

4 **OPTION B:** *If exempting broadband infrastructure from local property*
5 *taxation ONLY, upon local voter approval*

6 Sec. 15e. 32 V.S.A. § 3851 is added to read:

7 **§ 3851. BROADBAND INFRASTRUCTURE**

8 (a) At an annual or special meeting warned for that purpose, a municipality
9 may, by a majority vote of those present and voting, exempt broadband
10 infrastructure, as defined in subsection (b) of this section, from real and
11 personal property taxation. Such exemption shall first be applicable against
12 the grand list of the year in which the vote is taken and shall continue until
13 voted otherwise, in the same manner, by the municipality.

14 (b) As used in this section, “broadband infrastructure” means:

15 (1) Real and personal property, except land, owned by an electric
16 distribution utility that comprises broadband infrastructure, including
17 structures, machinery, lines, poles, wires, and fixtures, provided the
18 infrastructure is leased to a communications union district for the purpose of
19 providing broadband service, and further provided the broadband infrastructure
20 is constructed on or after July 1, 2021.

1 (2) Real and personal property, except land, owned by a broadband
2 provider that comprises broadband infrastructure, including structures,
3 machinery, lines, poles, wires, and fixtures, provided:

4 (A) the infrastructure is used for the purpose of providing broadband
5 service in unserved and underserved areas;

6 (B) the purpose required in subdivision (A) of this subdivision (b)(2)
7 is affirmed in writing by both the Department of Public Service and any
8 affected communications union district; and

9 (C) the infrastructure is constructed on or after July 1, 2021.

10 Sec. 15f. 32 V.S.A. § 3602a is amended to read:

11 § 3602a. FACILITIES USED IN THE GENERATION, TRANSMISSION,
12 OR DISTRIBUTION OF ELECTRIC POWER

13 All structures, machinery, poles, wires, and fixtures of all kinds and
14 descriptions used in the generation, transmission, or distribution of electric
15 power that are so fitted and attached as to be part of the works or facilities used
16 to generate, transmit, or distribute electric power shall be set in the grand list as
17 real estate. Nothing in this section shall alter the scope of the ~~exemption~~
18 exemptions in subdivision 3803(2) and section 3851 of this title, nor shall it
19 alter the taxation of municipally owned improvements accorded by section
20 3659 of this title.

21 Sec. 15g. 32 V.S.A. § 3620 is amended to read:

1 § 3620. ELECTRIC UTILITY POLES, LINES, AND FIXTURES

2 Electric utility poles, lines, and fixtures owned by nonmunicipal utilities
3 shall be taxed at appraisal value as defined by section 3481 of this title, except
4 as provided under section 3851 of this title.

5 Sec. 15h. EFFECTIVE DATE FOR PROPERTY TAX EXEMPTION ONLY

6 These sections (pertaining to broadband property tax exemptions) shall take
7 effect on passage and shall apply to grand lists lodged on and after July 1,
8 2021.

9 * * * Electric Distribution Utilities; Cost Recovery; Pole Survey and Make-
10 Ready Work for Fiber Deployment; * * *

11 Sec. 16. [Under consideration]

12 * * * Electric Distribution Utilities; Middle-mile Fiber;
13 Broadband Provider Access * * *

14 Sec. 17. 30 V.S.A. § 8091(f) is added to read:

15 (f) When presented with an interconnection request from an broadband
16 provider for access to middle-mile fiber-optic service at a specific substation,
17 an electric distribution utility shall inform existing broadband providers of the
18 request and shall assess the availability of competitive fiber-optic service in the
19 area. If alternative fiber-optic access is not available within one mile of the
20 substation and the electric distribution utility has unused facilities serving that
21 substation, the electric utility shall provide dark fiber from the substation to the

1 nearest point of interconnection with an existing broadband provider. The
2 support shall be in the form of an infeasible right of use (IRU) for a term of
3 not less than five years. All Vermont electric distribution utilities shall adopt a
4 uniform, nominal rate of charge for such IRUs of \$1.00 per strand mile per
5 year. This rate can be modified after five years by the Public Utilities
6 Commission. The service level agreement (SLA) in the IRU shall require the
7 electric distribution utility to restore service to the provider at the same time it
8 restores service to itself. In no case shall this penalize the electric distribution
9 utility. The broadband provider shall be responsible for all maintenance costs
10 directly associated with its fiber strands. Electric distribution utilities shall
11 revise their rates to accept interconnection requests pursuant to this subsection
12 on or before July 1, 2021.

13 * * * 248a; Telecommunications Facility Siting; Notice; CUDs * * *

14 Sec. 18. 30 V.S.A. § 248a(e) is amended to read:

15 (e) Notice. ~~Not~~ Not less than 60 days prior to filing an application for a
16 certificate of public good under this section, the applicant shall serve written
17 notice of an application to be filed with the Commission pursuant to this
18 section to the communications union districts, legislative bodies, and municipal
19 and regional planning commissions in the communities in which the applicant
20 proposes to construct or install facilities; the Secretary of Natural Resources;
21 the Secretary of Transportation; the Division for Historic Preservation; the

1 Commissioner of Public Service and its Director for Public Advocacy; the
2 Natural Resources Board if the application concerns a telecommunications
3 facility for which a permit previously has been issued under 10 V.S.A. chapter
4 151; and the landowners of record of property adjoining the project sites. In
5 addition, at least one copy of each application shall be filed with each of these
6 municipal and regional planning commissions. The notices to the legislative
7 body and planning commission of the municipality shall attach a statement that
8 itemizes the rights and opportunities available to those bodies under
9 subdivisions (c)(2) and (e)(2) of this section and under subsections (m), (n),
10 and (o) of this section and informs them of the guide published under
11 subsection (p) of this section and how to obtain a copy of that guide.

12 (1) Upon motion or otherwise, the Public Utility Commission shall
13 direct that further public or personal notice be provided if the Commission
14 finds that such further notice will not unduly delay consideration of the merits
15 and that additional notice is necessary for fair consideration of the application.

16 (2) On the request of the municipal legislative body or the planning
17 commission, the applicant shall attend a public meeting with the municipal
18 legislative body or planning commission, or both, within the 60-day notice
19 period before filing an application for a certificate of public good. The
20 Department of Public Service shall attend the public meeting on the request of
21 the municipality. The Department shall consider the comments made and

1 information obtained at the meeting in making recommendations to the
2 Commission on the application and in determining whether to retain additional
3 personnel under subsection (o) of this section.

4 (3) With the notice required under this subsection, the applicant shall
5 include a written assessment of the colocation requirements of subdivision
6 (c)(3) of this section, as they pertain to the applicant’s proposed
7 telecommunications facility. On the request of the municipal legislative body
8 or the planning commission, the Department of Public Service, pursuant to its
9 authority under subsection (o) of this section, shall retain an expert to review
10 the applicant’s colocation assessment and to conduct further independent
11 analysis, as necessary. Within 45 days of receiving the applicant’s notice and
12 colocation assessment, the Department shall report its own preliminary
13 findings and recommendations regarding colocation to the applicant and to all
14 persons required to receive notice of an application for a certificate of public
15 good under this subsection (e).

16 * * * Workforce Development; Communications Line Workers * * *

17 Sec. 19. [TBD]

18 * * * Effective Date * * *

19 Sec. 20. EFFECTIVE DATE

20 This act shall take effect on passage.