

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, support, and accelerate 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, educational, and
15 social needs of 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;

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 have fallen far short of delivering
16 broadband to the most remote regions of our State, often as a result of
17 inadequate federal broadband mapping data or insufficient accountability. As
18 a consequence, many locations in Vermont continue to lack access to
19 broadband, and a comprehensive, funded solution through existing federal and
20 State broadband programs is not available to address this critical need we face
21 in Vermont. Despite these challenges, local communities have assembled in

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

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

9 § 8082. DEFINITIONS

10 As used in this chapter:

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

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

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

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

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

20 (6) “Fund” means the Vermont Community Broadband Fund established
21 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 seven 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 (2) two public members selected by the Vermont Communications
16 Union District Association;

17 (3) one public member appointed by the Governor, who shall not be an
18 employee or officer of the State at the time of appointment;

19 (4) 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 (5) 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 persons with knowledge of communications
6 technology; communications law and policy; broadband deployment in rural,
7 high-cost areas; finance; and electric utility law and policy. However, the
8 public members may not be persons with a financial interest in or owners,
9 employees, or members of a governing board of an Internet service provider or
10 a communications union district. The conflict of interest provision in this
11 subsection shall not be construed to disqualify a member who has ownership in
12 a mutual fund, exchange traded fund, pension plan, or similar entity that owns
13 shares in such enterprises as part of a broadly diversified portfolio.

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

1 (e) The Authority’s powers are vested in the Board of Directors. At its
2 initial organizational meeting, and annually thereafter at the first meeting
3 following February 1, the Board shall elect from among its public members a
4 chair and vice chair. The Board may elect officers as it may determine.
5 Meetings shall be held at the call of the Chair or at the request of three
6 members. A majority of sitting members shall constitute a quorum, and action
7 taken by the Board under the provisions of this chapter may be authorized by a
8 majority of the members present and voting at any regular or special meeting.

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

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

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

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

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

6 (4) make an annual report to the Authority documenting the actions of
7 the Authority and such other reports as the Authority may request; and

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

10 (h) The Executive Director may retain or employ technical experts and
11 other officers, agents, employees, and contractors as are necessary to give
12 effect to the purposes of this chapter, including in the areas of finance, network
13 planning, technical design, and grant writing, and may fix their qualifications,
14 duties, and compensation. The Authority shall use the Office of the Attorney
15 General for legal services, as well as contract for legal services as needed.

16 § 8084. VERMONT COMMUNITY BROADBAND FUND

17 (a) There is created a special fund in the State Treasury to be known as the
18 “Vermont Community Broadband Fund.” The Fund shall be administered by
19 the Authority and expenditures therefrom shall only be made to implement and
20 effectuate the policies and purposes of this chapter. The Fund shall be
21 composed of any monies from time to time appropriated to the Fund by the

1 General Assembly or received from any other source, private or public,
2 approved by the Authority. Unexpended balances and any earning shall
3 remain in the Fund for use in accord with the purposes of this chapter.

4 (b) The money transferred to the Fund pursuant to subsection 7523(b) of
5 this title shall be used to fund the operational expenses of the Authority,
6 including a Rural Broadband Technical Assistance Specialist, who shall report
7 to the Executive Director and whose duties shall include providing outreach,
8 technical assistance, and other support services to communications union
9 districts.

10 (c) From the funds transferred to the Fund under subsection (b) of this
11 section and used to pay the operational expenses of the Authority, any
12 remaining funds shall be used to provide administrative, technical, and
13 financial assistance to communications union districts as authorized in this
14 chapter and, commencing on January 1, 2022, under the Connectivity Initiative
15 established in section 7515b of this title.

16 § 8085. GENERAL POWERS AND DUTIES; CONFIDENTIALITY

17 (a) The Authority shall have all the powers necessary and convenient to
18 carry out and effectuate the purposes and provisions of this chapter, including
19 those general powers provided to a business corporation by Title 11A and
20 those general powers provided to a nonprofit corporation by Title 11B and

1 including, without limitation of the general powers under Title 11A and 11B,

2 the power to:

3 (1) coordinate and facilitate community broadband efforts and to
4 provide resources to communications union districts in the form of
5 administrative and technical support as well as through grants, loans, and other
6 forms of financial assistance consistent with the purposes and provisions of the
7 chapter and as deemed appropriate by the Board of Directors, with input by the
8 Executive Director;

9 (2) assist communications union districts with development of business
10 plans that reflect local preferences;

11 (3) facilitate partnerships between communications union districts and
12 potential partners, including incumbent and competitive communications
13 providers and electric transmission and distribution utilities;

14 (4) advocate at the federal level for programs and policies that will
15 accelerate the deployment of universal broadband in rural Vermont that is
16 capable of speeds of at least 100 Mbps symmetrical;

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

20 (6) when authorized by one or more communications union districts,
21 apply for grants, loans, permits, licenses, certificates, or approvals, or enter

1 into contractual arrangements for goods or services on behalf of or jointly with
2 a communications union district or districts;

3 (7) consult with the Vermont Economic Development Authority and the
4 Vermont Municipal Bond Bank with regard to financing community
5 broadband projects;

6 (8) consult with agencies and departments regarding the establishment
7 or modification of taxes and fees applicable to broadband providers, including
8 the establishment of criteria for the waiver of such taxes and fees when
9 providers offer to furnish comparable value to the State to meet the public
10 good;

11 (9) assist communications union districts with pursuing route
12 identification for fiber-optic infrastructure and with obtaining pole surveys and
13 negotiating pole attachments;

14 (10) identify and publish State, federal, nonprofit, and any other
15 broadband funding opportunities and assist communications union districts
16 with completing grant and loan applications;

17 (11) provide input to the Department of Public Service on the
18 development of the State’s Telecommunications Plan; and

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

1 (b) Any records or information produced or acquired by the Authority that
2 are trade secrets or confidential business information shall be exempt from
3 public inspection and copying pursuant to 1 V.S.A. § 317(c)(9).

4 § 8086. ALLOCATION SYSTEM; FUNDING PRIORITIES

5 In reviewing funding proposals and determining the allocation of funds
6 pursuant to programs administered by the Authority, the Authority shall give
7 priority to projects that:

8 (1) provide service to unserved and underserved locations as part of a
9 plan that achieves universal broadband coverage in a community or
10 communications union district;

11 (2) support broadband service that is capable of speeds of at least 100
12 Mbps symmetrical;

13 (3) leverage federal or public-private partnership resources;

14 (4) support low-income or disadvantaged communities;

15 (5) promote geographic diversity of fund allocations;

16 (6) provide consumers with affordable service options; and

17 (7) include public broadband assets that can be shared by multiple
18 service providers and that can support a variety of public purposes.

19 § 8087. COMMUNITY BROADBAND PRECONSTRUCTION GRANT

20 PROGRAM

1 (a) There is established the Community Broadband Preconstruction Grant
2 Program to be administered by the Authority. The purpose of the Program is
3 to provide grants to communications union districts for preconstruction costs
4 related to broadband projects. As used in this section, “preconstruction costs”
5 include expenses for feasibility studies, business planning, pole data surveys,
6 engineering and design, and makeready work associated with the construction
7 of broadband networks, including consultant, legal, and administrative
8 expenses, and any other costs deemed appropriate by the Authority.

9 (b) To ensure an equitable distribution of funds under this Program and to
10 encourage collaborative work among communications union districts, grant
11 awards shall be scalable and shall be commensurate with the size of a
12 broadband project as determined by the project’s service area, road mileage,
13 the number of unserved or underserved locations, or any other metric deemed
14 appropriate by the Authority. In addition, the Authority may permit a grantee
15 to use a percentage of a grant award for grant management and may develop
16 standards for the disbursement of grant funds in a manner that both supports
17 the efficient and timely use of funds and also ensures accountability.

18 § 8088. SUBORDINATED LOAN PROGRAM

19 (a) The Authority shall establish a subordinated loan program for
20 communications union districts to support projects that are consistent with the
21 funding priorities established in section 8086 of this chapter, including by

1 supplementing financing under the Vermont Economic Development
2 Authority’s Broadband Expansion Loan Program. Loans under this section
3 shall be made upon such terms and conditions as may reasonably be expected
4 to be fulfilled by the borrower.

5 (b) Lending decisions under this section shall be made by the Vermont
6 Community Broadband Authority Board of Directors. The Vermont Economic
7 Development Authority shall service all loans made pursuant to this section.
8 In the event of default by a loan recipient, the Vermont Economic
9 Development Authority shall consult with the Vermont Community Broadband
10 Authority prior to commencing any collection action.

11 § 8089. ANNUAL REPORT

12 Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the
13 Authority shall submit a report of its activities pursuant to this chapter for the
14 preceding year to the Senate Committee on Finance, the House Committee on
15 Energy and Technology, and the Joint Information Technology Oversight
16 Committee. The report shall include an operating and financial statement
17 covering the Authority’s operations during the year, including a summary of
18 all grant awards and contracts and agreements entered into by the Authority.
19 In addition, the report shall include a description of the progress each start-up
20 communications union district has made in achieving long-term financial
21 sustainability that is not dependent upon public funding; an update on its

1 efforts to secure additional federal funds for broadband deployment; and
2 progress made towards meeting the State’s goal of ensuring every E-911
3 location has access to broadband capable of delivering a minimum of 100
4 Mbps symmetrical service as required in 30 V.S.A. § 202c(b)(10).

5 § 8089a. SUNSET; TRANSFER PLAN

6 (a) The Authority shall cease to exist on July 1, 2029.

7 (b) As part of its annual report submitted on or before January 15, 2029, the
8 Authority shall develop a plan for transferring its assets, liabilities, and legal
9 and contractual obligations to another appropriate State entity. The Authority
10 may include in its report a recommendation regarding the continued existence
11 of the Authority beyond its statutory sunset date.

12 Sec. 3. ORGANIZATIONAL MEETING; SPACE ALLOCATION

13 (a) Within 60 days of the effective date of this act, the Vermont
14 Community Broadband Authority Board of Directors shall hold its initial
15 organizational meeting. The Department of Public Service shall provide
16 administrative support to the Authority for 180 days commencing on the date
17 of the Authority’s initial organizational meeting, which shall be paid for from
18 the Vermont Community Broadband Fund established in Sec. 2 of this act.

19 (b) Within 60 days of the effective date of this act, the Commissioner of
20 Buildings and General Services shall allocate space for the Vermont
21 Community Broadband Authority established in Sec. 2 of this act.

1 Sec. 4. REPEALS

2 The following provisions of law are repealed:

3 (1) 2019 Acts and Resolves No. 79, Sec. 10 (Broadband Innovation
4 Grant Program).

5 (2) 2020 Acts and Resolves No. 154, Sec. B1105.2 (amending the
6 Broadband Innovation Grant Program).

7 Sec. 4a. POSITION TRANSFER

8 The position of Rural Broadband Technical Assistance Specialist shall be
9 transferred from the Department of Public Service to the Vermont Community
10 Broadband Authority upon the hiring of the Authority’s Executive Director.
11 The Authority shall reimburse the Department for any expenses associated
12 with the position and incurred by the Department in fiscal year 2022 prior to
13 the transfer required by this section.

14 * * * Universal Service Charge; Vermont Community Broadband Fund * * *

15 Sec. 5. 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 November 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 to
2 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 [Repealed.]

18 Sec. 6. 30 V.S.A. § 7523(b) is amended to read:

19 (b) Beginning on July 1, 2019, the rate of charge established under
20 subsection (a) of this section shall be increased by four-tenths of one percent of
21 retail telecommunications service, and the monies collected from this increase

1 shall be transferred to the ~~Connectivity Fund established under section 7516 of~~
2 ~~this title~~ Vermont Community Broadband Fund established under section 8084
3 of this title.

4 * * * Transfer of Fiber-optic Assets * * *

5 Sec. 7. TRANSFER OF FIBER-OPTIC ASSETS

6 On or before September 30, 2021, the Department of Public Service shall
7 transfer ownership of its fiber-optic assets to the communications union district
8 in which those assets are located. The transfer shall include the transfer of
9 rights and obligations under any existing contracts or lease agreements with
10 third parties regarding the maintenance or use of the fiber-optic assets. In
11 addition, the transfer shall include a requirement that, upon the dissolution of a
12 communications union district, any such fiber assets shall become the property
13 of the State to be managed by the Department of Public Service. A
14 communications union district may refuse to accept the transfer of assets
15 authorized by this section, in which case the assets shall remain the property of
16 the Department of Public Service. Nothing in this section shall preclude the
17 Department from transferring fiber-optic assets to a communications union
18 district that initially declined to accept such assets prior to September 30, 2021.

19 * * * Connectivity Initiative; Department of Public Service * * *

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

21 § 7515b. CONNECTIVITY INITIATIVE

1 (a) The purpose of the Connectivity Initiative is to provide each service
2 location in Vermont access to ~~Internet service~~ broadband that is capable of
3 speeds of at least ~~25 Mbps download and 3 Mbps upload, or the FCC speed~~
4 ~~requirements established under Connect America Fund Phase II, whichever is~~
5 ~~higher, beginning with locations not served as of December 31, 2013 according~~
6 ~~to the minimum technical service characteristic objectives applicable at that~~
7 ~~time~~ 100 Mbps symmetrical. Within this category of service locations, priority
8 shall be given first to unserved and then to underserved locations that are part
9 of a plan to achieve universal broadband coverage in a community or
10 communications union district. As used in this section, “unserved” means a
11 location ~~having access to only satellite or dial-up Internet service~~ that only has
12 access to broadband capable of speeds of less than 4 Mbps download and 1
13 Mbps upload and “underserved” means a location ~~having access to Internet~~
14 ~~service with speeds that exceed satellite and dial-up speeds but are less than~~
15 that only has access to broadband capable of speeds of at least 4 Mbps
16 download and 1 Mbps upload but less than 25 Mbps download and 3 Mbps
17 upload. ~~Any new services funded in whole or in part by monies from this~~
18 ~~Initiative shall be capable of being continuously upgraded to reflect the best~~
19 ~~available, most economically feasible service capabilities.~~

20 (b) The Department of Public Service shall publish annually a list of ~~census~~
21 ~~blocks~~ E-911 locations eligible for funding based on the Department’s most

1 recent broadband mapping data. The Department annually shall solicit
2 proposals from ~~service providers~~ communications union districts and from
3 service providers working in conjunction with a communications union district
4 to provide universal broadband service in a community or communications
5 union district, to deploy broadband to eligible ~~census blocks~~ E-911 locations.

6 Funding shall be available for capital improvements only, not for operating and
7 maintenance expenses. The Department shall give priority to proposals that
8 reflect the lowest cost of providing services to unserved and underserved
9 locations; however, the Department also shall consider:

- 10 (1) the proposed data transfer rates and other data transmission
11 characteristics of services that would be available to consumers;
- 12 (2) the price to consumers of services;
- 13 (3) the proposed cost to consumers of any new construction, equipment
14 installation service, or facility required to obtain service;
- 15 (4) whether the proposal would use the best available technology that is
16 economically feasible;
- 17 (5) the availability of service of comparable quality and speed; ~~and~~
- 18 (6) the objectives of the State’s Telecommunications Plan; and
- 19 (7) the extent to which a proposal leverages federal or private funding
20 opportunities.

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

12 (d) The Department shall maintain a publicly accessible inventory of
13 completed broadband projects financed in whole or in part with grants under
14 this section.

15 * * * Connectivity Initiative; Vermont Community Broadband Authority * * *

16 Sec. 9. 30 V.S.A. § 7515b is amended to read:

17 § 7515b. CONNECTIVITY INITIATIVE

18 (a) The Connectivity Initiative shall be administered by the Vermont
19 Community Broadband Authority. The purpose of the Connectivity Initiative
20 is to provide each service location in Vermont access to broadband that is
21 capable of speeds of at least 100 Mbps symmetrical. Within this category of

1 service locations, priority shall be given first to unserved and then to
2 underserved locations that are part of a plan to achieve universal broadband
3 coverage in a community or communications union district. As used in this
4 section, “unserved” means a location that only has access to broadband
5 capable of speeds of less than 4 Mbps download and 1 Mbps upload and
6 “underserved” means a location that only has access to broadband capable of
7 speeds of at least 4 Mbps download and 1 Mbps upload but less than 25 Mbps
8 download and 3 Mbps upload.

9 (b) The Department of Public Service shall publish annually a list of E-911
10 locations eligible for funding based on the Department’s most recent
11 broadband mapping data. The ~~Department~~ Authority annually shall solicit
12 proposals from communications union districts and from service providers
13 working in conjunction with a communications union district to provide
14 universal broadband service in a community or communications union district,
15 to deploy broadband to eligible E-911 locations. Funding shall be available for
16 capital improvements only, not for operating and maintenance expenses. The
17 ~~Department~~ Authority shall give priority to proposals that reflect the lowest
18 cost of providing services to unserved and underserved locations; however, the
19 ~~Department~~ Authority also shall consider:

20 (1) the proposed data transfer rates and other data transmission
21 characteristics of services that would be available to consumers;

- 1 (2) the price to consumers of services;
- 2 (3) the proposed cost to consumers of any new construction, equipment
3 installation service, or facility required to obtain service;
- 4 (4) whether the proposal would use the best available technology that is
5 economically feasible;
- 6 (5) the availability of service of comparable quality and speed; and
- 7 (6) the objectives of the State’s Telecommunications Plan; and
- 8 (7) the extent to which a proposal leverages federal or private funding
9 opportunities.

10 (c) In order to ensure that grants are disbursed based on the value of work
11 completed, the ~~Department~~ Authority shall develop with each grantee a
12 payment schedule that reflects the verified percentage of project completion.
13 To verify project completion, the grantee shall retain a ~~Department-approved~~
14 an Authority-approved third party to conduct independent field testing, which
15 the ~~Department~~ Authority may supplement with provider-supplied data and
16 crowd-sourced user data. If deemed necessary by the ~~Department~~ Authority,
17 the ~~Department~~ Authority may advance a grantee funds necessary for project
18 commencement. The ~~Department~~ Authority shall retain five percent of an
19 award for two years after project completion to ensure continued compliance
20 with contract terms. A grantee shall reimburse the ~~Department~~ Authority any

1 funds received for contracted work that is not completed pursuant to contract
2 specifications.

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

6 * * * Telecommunications and Connectivity Advisory Board * * *

7 Sec. 10. 30 V.S.A. § 202f is amended to read:

8 § 202f. TELECOMMUNICATIONS AND CONNECTIVITY ADVISORY
9 BOARD

10 (a) There is created the Telecommunications and Connectivity Advisory
11 Board for the purpose of making recommendations to the Commissioner of
12 Public Service regarding his or her telecommunications responsibilities and
13 duties as provided in this section. The Connectivity Advisory Board shall
14 consist of eight members selected as follows:

15 (1) the State Treasurer or designee;

16 (2) the Secretary of Commerce and Community Development or
17 designee;

18 (3) five at-large members appointed by the Governor, who shall not be
19 employees or officers of the State at the time of appointment; and

20 (4) the Secretary of Transportation or designee.

1 (b) A quorum of the Connectivity Advisory Board shall consist of four
2 voting members. No action of the Board shall be considered valid unless the
3 action is supported by a majority vote of the members present and voting and
4 then only if at least four members vote in favor of the action. The Governor
5 shall select, from among the at-large members, a chair and vice chair.

6 (c) In making appointments of at-large members, the Governor shall give
7 consideration to citizens of the State with knowledge of telecommunications
8 technology, telecommunications regulatory law, transportation rights-of-way
9 and infrastructure, finance, environmental permitting, and expertise regarding
10 the delivery of telecommunications services in rural, high-cost areas.
11 However, the five at-large members may not be persons with a financial
12 interest in or owners or employees of an enterprise that provides broadband or
13 cellular service or that is seeking in-kind or financial support from the
14 Department of Public Service. The conflict of interest provision in this
15 subsection shall not be construed to disqualify a member who has ownership in
16 a mutual fund, exchange traded fund, pension plan, or similar entity that owns
17 shares in such enterprises as part of a broadly diversified portfolio. The at-
18 large members shall serve terms of two years beginning on February 1 in odd-
19 numbered years and until their successors are appointed and qualified.
20 However, three of the five at-large members first appointed by the Governor
21 shall serve an initial term of three years. Vacancies shall be filled for the

1 balance of the unexpired term. A member may be reappointed for up to three
2 consecutive terms. Upon completion of a term of service for any reason,
3 including the term’s expiration or a member’s resignation, and for one year
4 from the date of such completion, a former Board member shall not advocate
5 before the Connectivity Board, Department of Public Service, or the Public
6 Utility Commission on behalf of an enterprise that provides broadband or
7 cellular service.

8 (d) Except for those members otherwise regularly employed by the State,
9 the compensation of the Board’s members is that provided by 32 V.S.A.
10 § 1010(a). All members of the Board, including those members otherwise
11 regularly employed by the State, shall receive their actual and necessary
12 expenses when away from home or office upon their official duties.

13 (e) In performing its duties, the Connectivity Advisory Board may use the
14 legal and technical resources of the Department of Public Service. The
15 Department of Public Service shall provide the Board with administrative
16 services.

17 (f) The Connectivity Advisory Board shall:

18 (1) ~~have review and nonbinding approval authority with respect to the~~
19 ~~awarding of grants under the Connectivity Initiative. The Commissioner shall~~
20 ~~have sole authority to make the final decision on grant awards, as provided in~~
21 ~~subsection (g) of this section.~~

1 ~~(2)~~ function in an advisory capacity to the Commissioner on the
2 development of State telecommunications policy and planning, including the
3 action plan required under subdivision 202e(b)(6) of this chapter and the State
4 Telecommunications Plan; and

5 ~~(3)~~ annually advise the Commissioner on the development of requests
6 for proposals under the Connectivity Initiative.

7 ~~(4)~~ annually provide the Commissioner with recommendations for the
8 apportionment of funds to the High Cost Program and the Connectivity
9 Initiative.

10 ~~(5)~~(2) annually provide the Commissioner with recommendations on the
11 appropriate Internet access speeds for publicly funded telecommunications and
12 connectivity broadband projects.

13 ~~(g) The Commissioner shall make an initial determination as to whether a~~
14 ~~proposal submitted under the Connectivity Initiative meets the criteria of the~~
15 ~~request for proposals. The Commissioner shall then provide the Connectivity~~
16 ~~Advisory Board a list of all eligible proposals and recommendations. The~~
17 ~~Connectivity Advisory Board shall review the recommendations of the~~
18 ~~Commissioner and may review any proposal submitted, as it deems necessary,~~
19 ~~and either approve or disapprove each recommendation and may make new~~
20 ~~recommendations for the Commissioner's final consideration. The~~
21 ~~Commissioner shall have final decision making authority with respect to the~~

1 ~~awarding of grants under the Connectivity Initiative. If the Commissioner~~
2 ~~does not accept a recommendation of the Board, he or she shall provide the~~
3 ~~Board with a written explanation for such decision.~~

4 (h) On November 15, 2019, and annually thereafter, the Commissioner
5 shall submit to the Connectivity Advisory Board an accounting of monies in
6 the Connectivity Fund and anticipated revenue for the next year.

7 (i) The Chair shall call the first meeting of the Connectivity Advisory
8 Board. The Chair or a majority of Board members may call a Board meeting.
9 The Board may meet up to six times a year.

10 (j) At least annually, the Connectivity Advisory Board and the
11 Commissioner or designee shall jointly hold a public meeting to review and
12 discuss the status of State telecommunications policy and planning, the
13 Telecommunications Plan, the Connectivity Fund, the Connectivity Initiative,
14 the High-Cost Program, and any other matters they deem necessary to fulfill
15 their obligations under this section.

16 (k) Information and materials submitted by a telecommunications service
17 provider concerning confidential financial or proprietary information shall be
18 exempt from public inspection and copying under the Public Records Act, nor
19 shall any information that would identify a provider who has submitted a
20 proposal under the Connectivity Initiative be disclosed without the consent of
21 the provider, unless a grant award has been made to that provider. Nothing in

1 this subsection shall be construed to prohibit the publication of statistical
2 information, determinations, reports, opinions, or other information ~~so long as~~
3 provided the data are disclosed in a form that cannot identify or be associated
4 with a particular telecommunications service provider.

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

6 Sec. 11. 10 V.S.A. § 280ee is amended to read:

7 § 280ee. BROADBAND EXPANSION LOAN PROGRAM

8 (a) Creation. There is established within the Authority the Vermont
9 Broadband Expansion Loan Program (~~the Program~~), the purpose of which is to
10 enable the Authority to make loans that expand broadband service to unserved
11 and underserved Vermonters as part of a plan to achieve universal broadband
12 coverage in a community or communications union district.

13 (b) Intent. It is understood that loans under the Program may be high-
14 risk loans to likely start-up businesses and therefore losses in the Program may
15 be higher than the Authority's historical loss rate. Loans shall be underwritten
16 by the Authority utilizing underwriting parameters that acknowledge the higher
17 risk nature of these loans. The Authority shall not make a loan unless the
18 Authority has a reasonable expectation of the long-term viability of the
19 business. The Program is intended to provide start-up loans until such time as
20 the borrower can refinance the loans through, for example, the municipal
21 revenue bond market.

1 (c)(1) Requirements. The Authority shall make loans for start-up and
2 expansion ~~that enable Internet service providers to expand broadband~~
3 availability of broadband projects in unserved and underserved locations as
4 part of a plan to achieve universal broadband coverage in a community or
5 communications union district.

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

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

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

14 (i) communications union districts;

15 (ii) Internet service providers working in conjunction with a
16 communications union district to expand broadband service to unserved and
17 underserved locations as part of a plan to achieve universal broadband
18 coverage in the district; and

19 (iii) Internet service providers working in conjunction with a
20 municipality that was not part of a communications union district prior to
21 December 1, 2020 to expand broadband service to unserved and underserved

1 locations as part of a plan to achieve universal broadband coverage in such
2 municipality;

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

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

5 ~~(E)~~(D) a maximum of \$10,800,000.00 in Authority loans may be
6 ~~made~~ outstanding under the Program commencing on June 20, 2019; ~~and~~

7 ~~(F)~~(E) the provider shall offer to all customers broadband service that
8 is capable of speeds of at least 100 Mbps symmetrical; and

9 (F) not more than one-sixth of the total allowable loans under this

10 Program shall be available to eligible borrowers under subdivision

11 (c)(2)(B)(iii) of this section.

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

17 (d) On or before January 1, 2020, and annually thereafter, the Authority
18 shall submit a report of its activities pursuant to this section to the Senate
19 Committee on Finance and the House Committees on Commerce and
20 Economic Development and on Energy and Technology. Each report shall
21 include operating and financial statements for the two most recently concluded

1 State fiscal years. In addition, each report shall include information on the
2 Program portfolio, including the number of projects financed; the amount,
3 terms, and repayment status of each loan; and a description of the broadband
4 projects financed in whole or in part by the Program.

5 Sec. 12. 10 V.S.A. § 280ff is amended to read:

6 § 280ff. FUNDING

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

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

17 (1) ~~The Program shall terminate when all borrowers enrolled in the~~
18 ~~Program have repaid in full or loans have been charged off against the reserves~~
19 ~~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 This is a
3 revolving loan program.

4 ~~(3)~~(2) The accumulated total of the appropriation shall not exceed
5 \$8,500,000.00 over the life of the Program.

6 ~~(4)~~(3) The Authority shall absorb its historical loan loss reserve rate
7 before any State funds are expended.

8 ~~(5)~~(4) Additionally, the Authority shall absorb up to \$3,000,000.00 in
9 Program losses shared with the State on a pro rata basis.

10 Sec. 13. [Deleted.]

11 Sec. 14. [Deleted.]

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

13 Sec. 15. 30 V.S.A. § 3084 is added to read:

14 § 3084. CONFIDENTIALITY; LEGISLATIVE INTENT

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

20 * * * Property Tax Exemption; Broadband Infrastructure * * *

21 Sec. 16. 32 V.S.A. § 3802 is amended to read:

1 § 3802. PROPERTY TAX

2 The following property shall be exempt from taxation:

3 * * *

4 (19) Real and personal property, except land, owned by an electric
5 distribution utility that comprises broadband infrastructure, including
6 structures, machinery, lines, poles, wires, and fixtures, provided the
7 infrastructure is leased to a communications union district or to an Internet
8 service provider working in conjunction with a communications union district,
9 and is primarily for the purpose of providing broadband service capable of
10 speeds of at least 100 Mbps symmetrical. This exemption applies only to
11 broadband infrastructure constructed on or after July 1, 2021.

12 (20) Real and personal property, except land, owned by an Internet
13 service provider that comprises broadband infrastructure, including structures,
14 machinery, lines, poles, wires, and fixtures, provided the infrastructure is
15 capable of speeds of at least 100 Mbps symmetrical, is part of a plan to achieve
16 universal broadband coverage in a community or communications union
17 district with unserved and underserved locations, is constructed on or after
18 July 1, 2021, and further provided:

19 (A) this plan is affirmed in writing by the Department of Public
20 Service; and

1 Sec. 19. 32 V.S.A. § 3620 is amended to read:

2 § 3620. ELECTRIC UTILITY POLES, LINES, AND FIXTURES

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

6 * * * Communications Workforce Development * * *

7 Sec. 20. BROADBAND OCCUPATIONAL NEEDS SURVEY

8 (a) The Commissioner of Labor shall conduct an occupational needs survey
9 to determine workforce needs in the communications sector specific to
10 broadband buildout and maintenance. In conducting this survey, the
11 Commissioner shall solicit input from employers and subcontractors
12 throughout the State. The Department of Public Service and communications
13 union districts shall assist the Department of Labor in identifying employers
14 with workforce needs connected to this act. The purpose of the survey is to
15 identify current and future employment opportunities and the prerequisite skills
16 needed for widespread worker recruitment and building a talent pipeline to
17 support the goals of this act.

18 (b) The Commissioner shall report his or her findings and
19 recommendations to the relevant legislative committees of jurisdiction on or
20 before January 15, 2022.

1 (2) \$500,000.00 to the Vermont Community Broadband Fund
2 established in Sec. 2 of this act to support the start-up costs of the Vermont
3 Community Broadband Authority; however, the Authority shall reimburse the
4 General Fund this amount in fiscal year 2022;

5 (3) \$100,000.00 to the Department of Labor to support the broadband
6 occupational needs survey required by Sec. 20 and the Broadband Installer
7 Apprenticeship Program established in Sec. 22 of this act as follows:

8 (A) \$3,000.00 to finance the development of the Apprenticeship
9 Program;

10 (B) \$90,000.00 to support the related instruction tuition and on-the-
11 job training contracts with employer-sponsors under the Apprenticeship
12 Program; and

13 (C) \$7,000.00 to support work related to developing, conducting, and
14 reporting on the occupational needs survey that is not federally-funded; and

15 (4) \$24,000,000.00 to the Vermont Community Broadband Authority
16 for the subordinated loan program established in Sec. 2 of this act.

17 (b) **Funding sources.** Funding sources for the appropriations in subsection
18 (a) of this section are as follows:

19 (1) Unexpended Coronavirus Relief Funds appropriated to the
20 Department of Public Service in 2020.

1 (2) Unexpended funds from the \$900,000.00 appropriated to the
2 Department of Public Service in 2017 Acts and Resolves No. 84, Sec. 16c, as
3 amended by 2018 Acts and Resolves No. 190, Sec. 14, and by 2019 Acts and
4 Resolves No. 79, Secs. 27a and 27b.

5 (3) Fiscal year 2021, one-time General Fund appropriations shall
6 support the programs in subdivisions (a)(1), (2), (3), and (4) of this section.

7 (c) **Fund transfers.**

8 (1) Any funds remaining in the Broadband Innovation Grant Program
9 established by 2019 Acts and Resolves No. 79, Sec. 10, as of January 1, 2022
10 shall be transferred to the Vermont Community Broadband Fund.

11 (2) The Vermont Community Broadband Authority shall be
12 redesignated as the responsible entity for administering the \$1,000,000.00
13 grant award to the Department of Public Service by the Northern Border
14 Regional Commission (NBRC) for the purpose of supporting communications
15 union districts.

16 * * * Legislative Priorities for Federal Funds * * *

17 Sec. 24. LEGISLATIVE PRIORITIES; FEDERAL FUNDS

18 With respect to federal funds potentially available to the State of Vermont
19 in fiscal years 2021 and 2022, the General Assembly establishes as a high
20 priority providing support for community efforts that advance the State’s goal
21 of achieving universal access to reliable, high-quality, affordable broadband

1 consistent with the policies, purposes, and programs established under
2 30 V.S.A. chapter 91A, concerning the Vermont Community Broadband
3 Authority established in Sec. 2 of this act.

4 * * * Effective Dates * * *

5 Sec. 25. EFFECTIVE DATES

6 This act shall take effect on passage, except that:

7 (1) Secs. 16 – 19 (property tax exemption for broadband infrastructure)
8 shall take effect on July 1, 2021; and

9 (2) Sec. 4 (repeal of the Broadband Innovation Grant Program) and Sec.
10 9 (administration of the Connectivity Initiative by the Vermont Community
11 Broadband Authority) and Sec. 10 (Telecommunications and Connectivity
12 Advisory Board) shall take effect on January 1, 2022.