

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 360
3 entitled “An act relating to accelerated community broadband deployment”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

7 * * * Legislative Findings and Intent * * *

8 Sec. 1. FINDINGS AND INTENT

9 (a) The General Assembly finds that:

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

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

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

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

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

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

15 (7) In 2020, the COVID-19 public health emergency served as an
16 accelerant to the socioeconomic disparities between the connected and the
17 unconnected in our State. Vermonters who cannot access or cannot afford
18 broadband, many of whom are geographically isolated, face challenges with
19 respect to distance learning; remote working; accessing telehealth services; and
20 accessing government programs and services, including our institutions of
21 democracy, such as the court system.

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

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

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

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

14 (12) When existing broadband providers fail to achieve the goal of
15 providing reliable, high-quality, universal broadband, it is imperative for the
16 State to support and facilitate the construction of broadband infrastructure
17 through financial and other means.

18 (13) Communications union districts (CUDs) were created by the State
19 to coordinate and implement creative and innovative solutions in their
20 respective territories, particularly where existing providers are not providing

1 adequate service that meets the needs of their residents and businesses while
2 ensuring public accountability.

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

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

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

15 (17) To ensure universal broadband in Vermont, there is a need for
16 greater coordination of grassroots broadband solutions both among the CUDs
17 themselves and also with respect to their other potential partners, such as
18 electric distribution utilities, nonprofit organizations, the federal government,
19 and private broadband providers.

20 (18) In addition to broadband access, it is imperative for the State to
21 address the critical issues of broadband affordability and adoption.

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(19) The Department of Public Service estimates that 82 percent of Vermont addresses (254,000 locations) lack access to 100 Mbps symmetrical service. The total cost to provide 100 Mbps symmetrical service to each of these locations is approximately \$1,000,000,000.00. This figure is based on estimates in the Magellan Advisors’ report commissioned by the Department, and it includes estimates of both fixed and variable capital costs for fiber to the premise infrastructure (Feasibility Study of Electric Companies Offering Broadband in Vermont, dated December 31, 2019).

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

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

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

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

(4) protecting Vermonters’ privacy and unrestricted access to the Internet;

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

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

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

8 (8) providing time-limited leadership for coordinating the buildout of
9 Vermont’s communications union districts and their partners and for
10 developing financing mechanisms to fully support that buildout through a
11 newly created State entity, the Vermont Community Broadband Authority,
12 designed specifically to effectuate these purposes.

13 * * * Vermont Community Broadband Board * * *

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

15 CHAPTER 91A: VERMONT COMMUNITY BROADBAND BOARD

16 § 8081. PURPOSE

17 In recognition of the historic level of broadband funding currently available
18 to the State and the critical need for broadband access and adoption, it is the
19 purpose of this chapter to establish the Vermont Community Broadband Fund
20 to support policies and programs designed to accelerate community efforts that
21 advance the State’s goal of achieving universal access to reliable, high-quality,

1 affordable, fixed broadband and to establish the Vermont Community
2 Broadband Board to coordinate, facilitate, support, and accelerate the
3 development and implementation of universal community broadband solutions.

4 § 8082. DEFINITIONS

5 As used in this chapter:

6 (1) “Board” means the Vermont Community Broadband Board.

7 (2) “Broadband service” or “broadband” means a mass-market retail
8 service by wire or radio in Vermont that provides the capability to transmit
9 data to and receive data from all or substantially all Internet endpoints,
10 including any capabilities that are incidental to and enable the operation of the
11 communications service, but excluding dial-up Internet access service.

12 (3) “Community” means a contiguous geographic area of the State,
13 without regard to municipal boundaries or size of geographic area, that
14 contains unserved and underserved locations.

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

16 (5) “Eligible provider” means a:

17 (A) communications union district; or

18 (B) small communications carrier.

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

1 (7) “Internet service provider” means a business that provides
2 broadband Internet access service to any person in Vermont.

3 (8) “Location” means an E-911 business or residential address
4 connected to the electric power grid.

5 (9) “Served” means a location that has access to broadband service
6 capable of speeds of at least 25 Mbps download and 3 Mbps upload.

7 (10) “Small communications carrier” means a carrier:

8 (A) a carrier that has elected to be regulated under subsection 227d(a)
9 of this title; or

10 (B) an Internet service provider that operates in not more than three
11 counties.

12 (11) “Underserved” means a location that only has access to broadband
13 service capable of speeds of at least 4 Mbps download and 1 Mbps upload but
14 less than 25 Mbps download and 3 Mbps upload.

15 (12) “Universal service plan” means a plan for providing each unserved
16 and underserved location in a community, communications union district, or
17 service territory of a small telecommunications carrier access to broadband
18 service capable of speeds of at least 100 Mbps download and 100 Mbps
19 upload.

20 (13) “Unserved” means a location that only has access to broadband
21 capable of speeds of less than 4 Mbps download and 1 Mbps upload.

1 § 8083. VERMONT COMMUNITY BROADBAND FUND

2 (a) There is created a special fund in the State Treasury to be known as the
3 “Vermont Community Broadband Fund.” Expenditures from the Fund shall be
4 made only to implement and effectuate the policies, purposes, and programs
5 established in this chapter. The Fund shall be composed of any monies from
6 time to time appropriated to the Fund by the General Assembly or received
7 from any other source, private or public, subject to the provisions of 32 V.S.A.
8 § 5. Unexpended balances and any earnings shall remain in the Fund for use in
9 accord with the purposes of this chapter.

10 (b) Authorized expenditures from the Fund include:

11 (1) grants pursuant to the Broadband Preconstruction Grant Program
12 established in section 8085 of this chapter;

13 (2) grants pursuant to the Broadband Construction Grant Program
14 established in section 8086 of this chapter;

15 (3) funding for communications workforce training and development, in
16 consultation with the Commissioner of Labor, to the extent such funds are not
17 available from other funding sources;

18 (4) administrative expenses of grant recipients in an amount determined
19 by the Board, subject to applicable federal law and guidance; and

1 (5) Up to \$1,500,000.00 to fund the operational expenses of the Board
2 and the Department to the extent the Department’s expenses are not
3 reimbursable under its annual budget funded by the gross receipts tax.

4 § 8084. MANAGEMENT OF THE FUND

5 (a) Vermont Community Broadband Board. (1) There is created within
6 the Department of Public Service the Vermont Community Broadband Board.
7 The Board shall have approval authority with respect to budget development,
8 program design, grant awards, and all other funding allocations pursuant to this
9 chapter.

10 (2) The Board shall consist of three members as follows:

11 (A) one member appointed by the Governor who shall not be an
12 employee or officer of the State at the time of the appointment and who shall
13 have expertise in the area of finance and who shall serve as the Chair;

14 (B) one member appointed by the Speaker of the House who shall not
15 be a member of the General Assembly at the time of the appointment and who
16 shall have expertise in the area of broadband deployment in rural, high-cost
17 areas; and

18 (C) one member appointed by the Senate Committee on Committees
19 who shall not be a member of the General Assembly at the time of the
20 appointment and who shall have expertise in the area of communications and
21 electric utility law and policy.

1 (3) The members may not be persons with a financial interest in or
2 owners, employees, or members of a governing board of an Internet service
3 provider or a communications union district; however, this provision shall not
4 be construed to disqualify a member who has ownership in a mutual fund,
5 exchange-traded fund, pension plan, or similar entity that owns shares in such
6 enterprises as part of a broadly diversified portfolio. Members shall serve
7 terms of three years beginning on February 1 of the year of appointment;
8 however, the member first appointed by the Governor shall serve an initial
9 term of four years, the member first appointed by the Speaker of the House
10 shall serve an initial term of three years, and the member first appointed by the
11 Committee on Committees shall serve an initial term of two years. A vacancy
12 shall be filled by the respective appointing authority for the balance of the
13 unexpired term. A member may be reappointed. A member may be removed
14 for cause only.

15 (4) At its initial organizational meeting, and annually thereafter at the
16 first meeting following February 1, the Board shall elect from among its
17 members a vice chair. The Board may elect officers as it may determine.
18 Meetings shall be held at the call of the Chair or at the request of two
19 members. A majority of sitting members shall constitute a quorum, and action
20 taken by the Board under the provisions of this chapter may be authorized by a
21 majority of the members present and voting at any regular or special meeting.

1 (5) Members are entitled to a per diem in the amount of \$250.00 for
2 each day spent in the performance of their duties and each member shall be
3 reimbursed for his or her reasonable expenses incurred in carrying out his or
4 her duties under this chapter.

5 (6) The Board shall have all the powers necessary and convenient to
6 carry out and effectuate the purposes and provisions of this chapter, including
7 the power to:

8 (A) coordinate and facilitate community broadband efforts;

9 (B) provide resources to communications union districts in the form
10 of administrative and technical support;

11 (C) provide grants for the preconstruction and construction costs of
12 broadband projects;

13 (D) facilitate partnerships between communications union districts
14 and their potential partners;

15 (E) develop policies or recommend to the General Assembly
16 programs that promote a strong communications workforce in Vermont;

17 (F) develop policies or recommend to the General Assembly
18 programs that promote access to affordable broadband service plans;

19 (G) consult with the Vermont Economic Development Board and the
20 Vermont Municipal Bond Bank with regard to financing community
21 broadband projects;

1 (H) identify and publish State, federal, nonprofit, and any other
2 broadband funding opportunities;

3 (I) provide input to the Department of Public Service on the
4 development of the State’s Telecommunications Plan; and

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

8 (7) The Department shall provide the Board with administrative
9 services.

10 (8) All meetings of the Board shall be open to the public and conducted
11 in accordance with the Vermont Open Meeting Law. All records of the Board
12 are subject to the Vermont Public Records Act. Any records or information
13 produced or acquired by the Board that are trade secrets or confidential
14 business information shall be exempt from public inspection and copying
15 pursuant to 1 V.S.A. § 317(c)(9).

16 (b) Executive Director. (1) The Vermont Community Broadband Fund
17 shall have an Executive Director who shall be appointed by the Governor with
18 the advice and consent of the Senate. The Executive Director shall be an
19 employee of the Department of Public Service. The Executive Director shall
20 be overseen and managed by the Board and shall serve as its chief
21 administrative officer. The Executive Director shall direct and supervise the

1 Board’s administrative affairs and technical activities in accordance with
2 Board policies. In addition to any other duties necessary for carrying out the
3 purposes of this chapter, the Executive Director shall:

4 (A) work with the Board in developing and implementing the
5 programs established by this chapter;

6 (B) approve all accounts of the Board, including accounts for
7 salaries, per diems, and allowable expenses of any employee or consultant
8 thereof and expenses incidental to the operation of the Board;

9 (C) make recommendations to the Board for grant awards or other
10 forms of financial or technical assistance authorized by this chapter;

11 (D) make an annual report to the Board documenting the actions of
12 the Board and such other reports as the Board may request; and

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

15 (2) The Executive Director may retain or employ technical experts and
16 other officers, agents, employees, and contractors as are necessary to give
17 effect to the purposes of this chapter, including in the areas of finance, network
18 planning, engineering and technical design, and grant writing, and may fix
19 their qualifications, duties, and compensation. The Executive Director shall
20 oversee and manage the Rural Broadband Technical Assistance Specialist.
21 The Executive Director is authorized to hire up to three additional full-time

1 employees pursuant to this subdivision who shall be part of the classified
2 service created in 3 V.S.A. chapter 13.

3 (c) Administration. The Fund shall be administered by the Department.
4 The Department is authorized to expend monies from the Fund in accordance
5 with this chapter. The Commissioner shall make all decisions necessary to
6 implement this chapter and administer the Fund except those decisions
7 committed to the Board under this section. The Department shall ensure an
8 open public process in the administration of the Fund for the purposes
9 established in this chapter.

10 (d) Grant administration redesignation. The Board shall be redesignated as
11 the responsible entity for administering the \$1,000,000.00 grant award to the
12 Department of Public Service by the Northern Border Regional Commission
13 for the purpose of supporting communications union districts. Any position
14 funded by the grant shall be overseen and managed by the Board in a manner
15 that is consistent with grant terms and conditions.

16 § 8085. BROADBAND PRECONSTRUCTION GRANT PROGRAM

17 (a) There is established the Community Broadband Preconstruction Grant
18 Program to be administered by the Board. The purpose of the Program is to
19 provide grants to communications union districts for preconstruction costs
20 related to broadband projects that are part of a universal service plan.

1 (b) As used in this section, “preconstruction costs” include expenses for
2 feasibility studies, business planning, pole data surveys, engineering and
3 design, and make-ready work associated with the construction of broadband
4 networks, including consultant, legal, and administrative expenses, and any
5 other costs deemed appropriate by the Board.

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

14 § 8086. BROADBAND CONSTRUCTION GRANT PROGRAM

15 (a) There is established the Broadband Construction Grant Program to
16 finance the broadband projects of eligible providers that are part of a universal
17 service plan.

18 (b) In evaluating grant proposals under this chapter, the Board shall give
19 priority to broadband projects that:

1 (1) leverage existing private resources and assets, with a high priority
2 given to partnerships between a communications union district and a
3 distribution utility;

4 (2) demonstrate project readiness;

5 (3) provide broadband service that complies with the consumer
6 protection and net neutrality standards established in 3 V.S.A. § 348;

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

8 (5) promote geographic diversity of fund allocations;

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

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

12 (c) The Board shall establish policies and standard grant terms and
13 conditions that:

14 (1) reflect payment schedules that ensure maximum accountability;

15 (2) adopt an industry-accepted engineering standard that promotes
16 network reliability, resiliency, and interoperability;

17 (3) establish standards for recouping grant funds and transferring
18 ownership of grant-funded network assets to the State if a grantee materially
19 fails to comply with the terms and conditions of a grant;

20 (4) prohibit the sale or transfer of grant-funded network assets without
21 the prior written approval of the Board;

1 (5) ensure project completion within a reasonable period of time and
2 consistent with applicable federal law and guidance; and

3 (6) comply with Administrative Bulletin No. 5, the Agency of
4 Administration’s policy for grant issuance and monitoring and Administrative
5 Bulletin 3.5 the Agency of Administration’s policy for procurement and
6 contracting procedures, as appropriate, and any other requirements of federal
7 law and guidance, if applicable.

8 (d) Before the Board awards a grant under this section, it shall determine
9 that the applicant has produced a viable business plan for its proposed
10 broadband project, which takes into consideration network engineering and
11 design, labor needs and availability, supply-chain contingencies for equipment
12 and materials, make-ready work, and any other relevant capital and operational
13 expenses.

14 (e) Before the Board awards a grant under this Program to a provider who
15 is not a communications union district, the Board shall make a reasonable
16 effort to determine that the carrier’s universal service plan does not conflict
17 with or undermine the deployment plans of an existing communications union
18 district.

19 (f) The Board may provide a grant to a project that enables the provision of
20 broadband service in a geographic area currently served, provided that:

1 (1) the project is the most cost-effective method for providing
2 broadband service to nearby unserved and underserved locations; and

3 (2) before awarding the grant, the Board makes a reasonable effort to
4 distinguish served and unserved or underserved locations within the
5 geographic area, including recognition and consideration of known or probable
6 service extensions or upgrades.

7 (g) The Board may award a grant to an Internet service provider to finance
8 a broadband project, such as a line extension or upgrade, that is not part of a
9 universal service plan if it finds that the project will provide unserved and
10 underserved locations with broadband service capable of speeds of at least 25
11 Mbps download and 3 Mbps upload on or before December 31, 2021 and is in
12 a geographic area that is not part of a communications union district.

13 (h) It is the intent of the General Assembly that a broadband project
14 financed under this Program demonstrates an economically sustainable
15 business model that ultimately will be eligible for financing in the private or
16 municipal bond market.

17 § 8087. CENTRALIZED RESOURCES FOR COMMUNICATIONS UNION

18 DISTRICTS

19 (a) The Board shall provide centralized resources and technical and
20 administrative support to communications union districts with respect to the
21 planning, development, and implementation of broadband projects.

1 (b) In carrying out the purpose of this section, the Board shall:

2 (1) develop standardized forms, contracts, network business and design
3 models, and templates for use by any communications union district;

4 (2) assist communications union districts with identifying and
5 negotiating with potential partners, including with respect to the development
6 of a memorandum of understanding or other form of legally-binding
7 commitment pertaining to a broadband project;

8 (3) when authorized by one or more communications union districts,
9 apply for grants, loans, permits, licenses, certificates, or approvals, or enter
10 into contractual arrangements for goods or services on behalf of or jointly with
11 a communications union district or districts;

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

15 (5) assist communications union districts with completing grant and loan
16 applications for funding opportunities that exist outside this chapter; and

17 (6) assist communications union districts with obtaining access to fiber-
18 optic networks owned by the State or by an electric transmission or distribution
19 utility, where appropriate.

20 § 8088. INTERAGENCY COOPERATION AND ASSISTANCE

1 Other departments and agencies of the State government, including the E-
2 911 Board, shall assist and cooperate with the Board and shall make available
3 to it information and data as needed to assist the Board in carrying out its
4 duties. The Secretary of Administration shall establish protocols and
5 agreements among the Board and departments and agencies of the State for
6 this purpose. Nothing in this section shall be construed to waive any privilege
7 or protection otherwise afforded to the data and information under exemption
8 to the Public Records Act or under other laws due solely to the fact that the
9 information or data is shared with the Board pursuant to this section.

10 § 8089. ANNUAL REPORT

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

1 broadband deployment, and progress made towards meeting the State’s goal of
2 ensuring every E-911 location has access to broadband capable of delivering a
3 minimum of 100 Mbps symmetrical service as required in subdivision
4 202c(b)(10) of this title.

5 (b) As part of its first annual report, the Board shall include recommended
6 legislation for policies and programs not authorized under this chapter but
7 consistent with its purpose or for any other policies and programs it deems
8 appropriate. The report shall include recommendations concerning increased
9 access to and use of fiber-optic networks owned by the State or by an electric
10 transmission or distribution utility in furtherance of the goals of this chapter.
11 In addition, and with input from relevant stakeholders, the Board shall make
12 recommendations on whether and to what extent authorized expenditures under
13 the Fund should be expanded to include:

14 (1) funding for equipment replacement in the Department of Libraries’
15 FiberConnect Network;

16 (2) funding for building-wide Wi-Fi installations at multi-unit affordable
17 housing owned by nonprofits and housing authorities for the purpose of
18 providing free broadband service to the residents thereof;

19 (3) funding for digital inclusion efforts, such as subsidized customer
20 equipment installations and broadband service, grants for long-term
21 affordability planning; and outreach and digital literacy training;

1 (4) funding for co-worker spaces;

2 (5) additional funding for communications workforce development

3 initiatives; and

4 (6) funding for any other broadband programs or initiatives.

5 § 8089a. SUNSET; TRANSFER PLAN

6 (a) The Fund and Board 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 Board shall develop a plan for transferring its assets, liabilities, and legal and
9 contractual obligations to another appropriate State entity. The Board may
10 include in its report a recommendation regarding the continued existence of the
11 Board beyond its statutory sunset date.

12 Sec. 3. ORGANIZATIONAL MEETING; SPACE ALLOCATION

13 (a) Within 60 days following the effective date of this act, the Vermont
14 Community Broadband Board shall hold its initial organizational meeting and
15 the Governor shall appoint an Executive Director.

16 (b) Within 60 days following the effective date of this act, the
17 Commissioner of Buildings and General Services shall allocate space for the
18 Vermont Community Broadband Board.

19 Sec. 4. REPEALS

20 The following provisions of law are repealed:

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

3 (2) 2020 Acts and Resolves No. 154, Sec. B1105.2 (amending the
4 Broadband Innovation Grant Program).

5 Sec. 5. POSITIONS

6 (a) The position of Rural Broadband Technical Assistance Specialist shall
7 be subject to the oversight and management of the Executive Director of the
8 Vermont Community Broadband Board upon his or her appointment. The
9 position shall remain in the classified service created in 3 V.S.A. chapter 13.

10 (b) The Commissioner is authorized to hire one full-time employee to
11 provide administrative services for the Board. This position shall be part of the
12 classified service created in 3 V.S.A. Chapter 13. The Commissioner is
13 authorized to hire one full-time attorney to provide legal services for the
14 Board. This position shall be an exempt position and shall be subject to the
15 oversight and management of the Executive Director of the Vermont
16 Community Broadband Board upon his or her appointment. The salaries and
17 benefits for these two positions shall constitute expenses that are to be
18 reimbursed to the Department from the Fund pursuant to 30 V.S.A.
19 § 8083(b)(10).

20 Sec. 6. INTERIM GRANTS; DEPARTMENT OF PUBLIC SERVICE

1 Department from transferring fiber-optic assets to a communications union
2 district that initially declined to accept such assets prior to September 30, 2021.

3 * * * Telecommunications and Connectivity Advisory Board * * *

4 Sec. 8. 30 V.S.A. § 202f is amended to read:

5 § 202f. TELECOMMUNICATIONS AND CONNECTIVITY ADVISORY
6 BOARD

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

12 (1) the State Treasurer or designee;

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

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

17 (4) the Secretary of Transportation or designee.

18 (b) A quorum of the Connectivity Advisory Board shall consist of four
19 voting members. No action of the Board shall be considered valid unless the
20 action is supported by a majority vote of the members present and voting and

1 then only if at least four members vote in favor of the action. The Governor
2 shall select, from among the at-large members, a chair and vice chair.

3 (c) In making appointments of at-large members, the Governor shall give
4 consideration to citizens of the State with knowledge of telecommunications
5 technology, telecommunications regulatory law, transportation rights-of-way
6 and infrastructure, finance, environmental permitting, and expertise regarding
7 the delivery of telecommunications services in rural, high-cost areas.

8 However, the five at-large members may not be persons with a financial
9 interest in or owners or employees of an enterprise that provides broadband or
10 cellular service or that is seeking in-kind or financial support from the
11 Department of Public Service. The conflict of interest provision in this
12 subsection shall not be construed to disqualify a member who has ownership in
13 a mutual fund, exchange traded fund, pension plan, or similar entity that owns
14 shares in such enterprises as part of a broadly diversified portfolio. The at-
15 large members shall serve terms of two years beginning on February 1 in odd-
16 numbered years and until their successors are appointed and qualified.

17 However, three of the five at-large members first appointed by the Governor
18 shall serve an initial term of three years. Vacancies shall be filled for the
19 balance of the unexpired term. A member may be reappointed for up to three
20 consecutive terms. Upon completion of a term of service for any reason,
21 including the term's expiration or a member's resignation, and for one year

1 from the date of such completion, a former Board member shall not advocate
2 before the Connectivity Board, Department of Public Service, or the Public
3 Utility Commission on behalf of an enterprise that provides broadband or
4 cellular service.

5 (d) Except for those members otherwise regularly employed by the State,
6 the compensation of the Board’s members is that provided by 32 V.S.A.
7 § 1010(a). All members of the Board, including those members otherwise
8 regularly employed by the State, shall receive their actual and necessary
9 expenses when away from home or office upon their official duties.

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

14 (f) The Connectivity Advisory Board shall:

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

19 (2) function in an advisory capacity to the Commissioner on the
20 development of State telecommunications policy and planning, including the

1 action plan required under subdivision 202e(b)(6) of this chapter and the State
2 Telecommunications Plan; and

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

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

8 ~~(5)(2)~~ annually provide the Commissioner with recommendations on the
9 appropriate Internet access speeds for publicly funded telecommunications and
10 connectivity broadband projects.

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

1 ~~does not accept a recommendation of the Board, he or she shall provide the~~
2 ~~Board with a written explanation for such decision.~~

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

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

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

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

1 information, determinations, reports, opinions, or other information ~~so long as~~
2 provided the data are disclosed in a form that cannot identify or be associated
3 with a particular telecommunications service provider.

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 that expand broadband service to unserved
10 and underserved Vermonters as part of a plan to achieve universal broadband
11 coverage in a community or communications union district.

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

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 Board.

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. 10. 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 from or appropriation~~ State appropriations to the Authority
12 ~~in 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 * * * CUDs; Public Records Act; Trade Secret Exemption; Intent * * *

11 Sec. 11. 30 V.S.A. § 3084 is added to read:

12 § 3084. CONFIDENTIALITY; LEGISLATIVE INTENT

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

18 * * * Property Tax Exemption; Broadband Infrastructure * * *

19 Sec. 12. 32 V.S.A. § 3802 is amended to read:

20 § 3802. PROPERTY TAX

21 The following property shall be exempt from taxation:

1 * * *

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

10 Sec. 13. 32 V.S.A. § 3800(n) is added to read:

11 (n) The statutory purpose of the exemptions for broadband infrastructure in
12 subdivision 3802(19) of this title is to lower the cost of broadband deployment
13 in unserved and underserved areas of Vermont.

14 Sec. 14. 32 V.S.A. § 3602a is amended to read:

15 § 3602a. FACILITIES USED IN THE GENERATION, TRANSMISSION,

16 OR DISTRIBUTION OF ELECTRIC POWER

17 All structures, machinery, poles, wires, and fixtures of all kinds and
18 descriptions used in the generation, transmission, or distribution of electric
19 power that are so fitted and attached as to be part of the works or facilities used
20 to generate, transmit, or distribute electric power shall be set in the grand list as
21 real estate. Nothing in this section shall alter the scope of the ~~exemption in~~

1 ~~subdivision~~ exemptions in subdivisions 3803(2) and 3802(19) of this title, nor
2 shall it alter the taxation of municipally owned improvements accorded by
3 section 3659 of this title.

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

5 § 3620. ELECTRIC UTILITY POLES, LINES, AND FIXTURES

6 Electric utility poles, lines, and fixtures owned by nonmunicipal utilities
7 shall be taxed at appraisal value as defined by section 3481 of this title, except
8 as provided under subdivision 3802(19) of this title.

9 * * * Communications Workforce Development * * *

10 Sec. 16. BROADBAND OCCUPATIONAL NEEDS SURVEY

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

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

4 (c) Employers who do not participate in supplying information for this
5 report will not be eligible for grant funding under this act.

6 Sec. 17. FTTX; INCUMBENT TRAINING PROGRAM

7 Vermont Technical College, in consultation with the Vermont Department
8 of Labor, shall establish an incumbent training program for communications
9 installers and technicians. The goal of the program is to provide skills
10 upgrades for existing employees. Up to \$40,000.00 is appropriated from the
11 Vermont Department of Labor’s fiscal year 2022 Training Fund to support this
12 training program.

13 Sec. 18. BROADBAND INSTALLER APPRENTICESHIP PROGRAM

14 The Commissioner of Labor, working with broadband employers, shall
15 establish a federally registered apprenticeship program that meets one or more
16 occupational needs related to the installation and maintenance of broadband
17 networks.

18 * * * Easements; Private Property; Fiber * * *

19 Sec. 19. UTILITY POLES IN EASMENTS ACROSS PRIVATE PROPERTY

20 Utility easements and State rules regarding utility rights of way and pole
21 attachments shall include as an authorized utility use the installation of fiber

1 for purposes of providing broadband service to the public. Such use of the
2 utility easement and right of way serves the public good and facilitates the
3 construction of broadband networks as contemplated in this act.

4 Sec. 20. APPROPRIATION

5 In fiscal year 2022, the sum of \$100,000,000.00 is appropriated from the
6 American Rescue Plan Act of 2021 State Fiscal Relief Fund to the Vermont
7 Community Broadband Fund to be expended in a manner consistent with 30
8 V.S.A. § chapter 91A.

9 * * * Legislative Priorities for Federal Funds * * *

10 Sec. 21. LEGISLATIVE PRIORITIES; FEDERAL FUNDS

11 With respect to federal funds potentially available to the State of Vermont
12 in fiscal years 2021 and 2022, the General Assembly establishes as a high
13 priority providing support for community efforts that advance the State’s goal
14 of achieving universal access to reliable, high-quality, affordable broadband
15 consistent with the policies, purposes, and programs established under
16 30 V.S.A. chapter 91A, concerning the Vermont Community Broadband Board
17 established in Sec. 2 of this act.

18 * * * Effective Dates * * *

19 Sec. 22. EFFECTIVE DATES

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

