

H.360 – An Act Relating to Accelerated Community Broadband Deployment
Finance Strike-all Amendment
Section-by-Section Summary

Prepared by Legislative Counsel, May 6, 2021

Section	Summary
Sec. 1	Findings and Intent
Sec. 2	<p>Vermont Community Broadband Board</p> <ul style="list-style-type: none"> • § 8081. Purpose (of new chapter) <ul style="list-style-type: none"> ○ Recognizes the historic level of broadband funding currently available and the critical need for broadband access and adoption ○ Establishes the <u>VT Community Broadband Fund</u> to support policies and programs designed to accelerate community efforts that advance the State’s goal of achieving universal access to reliable, high-quality, affordable, fixed broadband ○ Establishes the <u>VT Community Broadband Board</u> to coordinate, facilitate, support, and accelerate the development and implementation of universal community broadband solutions. • § 8082. Definitions – <i>some</i> defined terms include: <ul style="list-style-type: none"> ○ “<u>Community</u>” – a contiguous geographic area of the State, without regard to municipal boundaries or size of geographic area, that contains unserved and underserved locations ○ “<u>Eligible provider</u>” – a CUD or “small communications carrier” ○ “<u>Location</u>” – an E-911 business or residential address connected to the power grid ○ “<u>Served</u>” – access to at least 25/3 Mbps ○ “<u>Unserved</u>” – access to less than 4/1 Mbps ○ “<u>Underserved</u>” – access to between 4/1 Mbps and less than 25/3 Mbps ○ “<u>Small communications carrier</u>” – a small telecommunications carrier (i.e., a small telephone company) or an ISP that operates in not more than 3 counties ○ “<u>Universal service plan</u>” – a plan for providing each unserved and underserved location in a community, CUD, or service territory of a small telecommunications carrier access to at least 100/100 Mbps broadband • § 8083. Vermont Community Broadband Fund <ul style="list-style-type: none"> ○ Special fund permitting unexpended balances to remain in the Fund ○ To implement and effectuate policies and purposes of chapter ○ (Pursuant to Sec. 20 of this act, contains \$100M in ARPA funds) ○ Eligible Fund expenditures: <ul style="list-style-type: none"> ▪ Broadband <u>Preconstruction</u> Grant Program (§ 8085) ▪ Broadband <u>Construction</u> Grant Program (§ 8086) ▪ Funding for communications workforce training

- Administrative expenses of grant recipients
 - Up to \$1.5M for operational expenses of Board and Department
- § 8084. **Management of the Fund**
 - **Vermont Community Broadband Board**
 - Within the Department of Public Service
 - Has approval authority with respect to budget development, program design, grant awards, and all other funding allocations
 - Consists of 3 members
 - One Governor appointee – not a State employee, expertise in finance, serves as Chair
 - One House appointee – not a legislator, expertise in broadband deployment in rural, high-cost areas
 - One Senate appointee – not a legislator, expertise in communications and electric utility law and policy
 - Member may not be owner/employee, etc. of CUD or ISP
 - 3-year terms; may be reappointed; removal only for cause
 - Per diem of \$250/day and reasonable expenses
 - Powers include:
 - Coordinate and facilitate community broadband efforts
 - Provide technical and administrative support to CUDs
 - Provide preconstruction and construction grants
 - Facilitate partnerships between CUDs and potential partners
 - Promote a strong communications workforce
 - Promote access to affordable broadband service
 - Consult with VEDA and VT Municipal Bond Bank regarding financing opportunities
 - Identify other broadband funding opportunities
 - Provide input to Department on the 10-year Telecom Plan
 - Do any and all things necessary to carry out purposes of chapter
 - Department provides administrative support for the Board
 - Subject to Open Meeting Law and Public Records Act (trade secrets are exempt from disclosure)
 - **Executive Director**
 - Appointed by Governor with advice and consent of Senate
 - Employee of Department, overseen and managed by Board
 - Serves as Board’s chief administrative officer
 - Among other things:
 - Works with Board on developing and implementing the programs established by this chapter
 - Makes grant recommendations to the Board
 - May retain or employ additional personnel
 - Authorized to hire up to 3 FTEs (classified service)
 - Oversees and manages Rural Broadband Technical Assistance Specialist upon appointment

- Department administers the Fund and can make decisions except those decisions committed specifically to the Board
- \$1M Northern Border Regional Commission grant to support CUDs, including the position funded by the grant, overseen and managed by Board
- § 8085. **Broadband Preconstruction Grant Program**
 - Grants to CUDs for preconstruction costs related to broadband projects that are part of a “universal service plan”
 - Such costs include – feasibility studies, business planning, pole data surveys, engineering and design, and make-ready work
- § 8086. **Broadband Construction Grant Program**
 - Grants to “eligible providers” to fund broadband projects that are part of a “universal service plan”
 - Priority given to projects that:
 - Leverage existing private resources and assets, with a high priority given to partnerships between a CUD and a distribution utility
 - Demonstrate project readiness
 - Provide service that complies with net neutrality standards
 - Support low-income or disadvantaged communities
 - Promote geographic diversity of fund allocations
 - Provide customers with affordable service options
 - Include public assets that can be shared by multiple service providers and that can support a variety of public purposes
 - Board establishes policies and standard grant terms and conditions that:
 - Reflect payment schedules that ensure maximum accountability
 - Adopt an industry-accepted engineering standard that promotes network reliability, resiliency, and interoperability
 - Establish standards for recouping grant funds and transferring ownership of grant-funded network assets to the State if a grantee materially fails to comply with grant terms and conditions
 - Prohibit the sale or transfer of grant-funded network assets without the prior written approval of the Board
 - Ensure project completion within a reasonable period of time and consistent with applicable federal law and guidance
 - Comply with Administrative Bulletins 5 (policy for grant issuance and monitoring) and 3.5 (policy for procurement and contracting procedures), and any other requirements of federal law and guidance
 - Before awarding a grant, Board shall determine applicant has produced a viable business plan (engineering and design; labor needs and availability, supply-chain contingencies, make-ready work, etc.)
 - Before awarding a grant to a provider who is *not* a CUD, Board shall make a reasonable effort to determine that the provider’s universal service plan does not conflict with or undermine a CUD’s deployment plans
 - Overbuilds allowed if the project is the most cost-effective method for providing service to nearby unserved and underserved locations and Board considers known or probable service extensions or upgrades

	<ul style="list-style-type: none"> ○ Any ISP may apply for a grant for a project that is not part of a universal service plan, such as a line extension, if it provides at least 25/3 Mbps on or before December 31, 2021 and is not in the geographic area of a CUD ○ Legislative intent - projects funded under this Program demonstrate an economically sustainable business model that ultimately will be eligible for financing in the private or municipal bond market ● § 8087. Centralized Resources for CUDs <ul style="list-style-type: none"> ○ Resources/technical/admin support for planning, development, and implementation of CUD broadband projects ○ Board shall: <ul style="list-style-type: none"> ▪ Develop standardized forms, contracts, models, templates ▪ Assist with identifying and negotiating with potential partners ▪ Apply for loans, grants, permits, etc. on behalf of or jointly with a CUD when so authorized ▪ Assist with fiber route identification and obtaining pole surveys and pole attachments ▪ Assist with grant and loan applications from other funding sources ▪ Assist with obtaining access to fiber owned by the State or by an electric transmission or distribution utility, where appropriate ● § 8088. Interagency Cooperation and Assistance <ul style="list-style-type: none"> ○ Other departments/agencies assist/cooperate share relevant data ○ Secretary of Administration establishes protocols and agreements ● § 8089. Annual Report <ul style="list-style-type: none"> ○ Report to legislative committees ○ Description of start-up CUD progress towards achieving long-term financial sustainability not dependent on public funding ○ Progress towards meeting State goal (100 Mbps by end of year 2024) ○ First annual report, due January 15, 2022, shall include: <ul style="list-style-type: none"> ▪ Recommendations for legislation, generally, and also with regard to increased access to State or electric-utility owned fiber ▪ Recommendations with regard to expanding Fund expenditures for: <ul style="list-style-type: none"> ● DOL FiberConnect Network ● Wi-Fi installations at multi-unit affordable housing ● Digital inclusion initiatives (affordability; digital literacy) ● Co-worker spaces ● Communications workforce development initiatives ● Any other broadband programs and initiatives ● § 8089a. Sunset; Transfer Plan <ul style="list-style-type: none"> ○ Fund and Board sunset July 1, 2029 ○ Final annual report to General Assembly shall include a transfer plan and may include a recommendation for continued existence of Board
Sec. 3	<p>Organizational Meeting; Space Allocation</p> <ul style="list-style-type: none"> ● Within 60 days, Board holds initial organizational meeting and Governor appoints Executive Director ● Within 60 days, BGS allocates office space for Board

Sec. 4	<p>Repeal of Broadband Innovation Grant Program (<i>effective January 1, 2022</i>)</p> <ul style="list-style-type: none"> • (About \$60K remaining in this Program)
Sec. 5	<p>Positions</p> <ul style="list-style-type: none"> • Rural Broadband Technical Assistance Specialist subject to oversight and management of Executive Director upon his or her appointment; remains a classified position (funding source remains VT Universal Service Fund) • Commissioner may hire FTE administrative services (classified) position to support Board • Commissioner may hire one full-time attorney, exempt, subject to oversight and management of Executive Director upon his or her appointment • Funding source for the 2 <u>new</u> hires is the Vermont Community Broadband Fund
Sec. 6	<p>Interim Grants; Department of Public Service</p> <ul style="list-style-type: none"> • Department authorized to allocate and disburse up to a total of \$20M, or \$25M if an additional \$5M is authorized by the Joint Fiscal Committee • For preconstruction and construction grants • Authorization exists until December 31, 2021 or until the Board is operational, whichever occurs first
Sec. 7	<p>Transfer of DPS Fiber Assets to CUDs</p> <ul style="list-style-type: none"> • On or before September 30, 2021, Department must transfer ownership of its fiber assets to CUDs, along with related contractual arrangements • CUD may choose not to accept fiber assets; in which case assets remain with DPS unless transferred to a CUD subsequently
Sec. 8	<p>Telecommunications and Connectivity Advisory Board</p> <ul style="list-style-type: none"> • As of January 1, 2022, this Board, which advises the Department, no longer reviews Connectivity Initiative proposals
Secs. 9-10	<p>VEDA's Broadband Expansion Loan Program</p> <ul style="list-style-type: none"> • Program established in 2019 • Loans are for expanding broadband service to unserved and underserved Vermonters, <u>as part of a plan to achieve universal broadband coverage in a community or CUD</u> • Intent clarified to specify goal of providing start-up loans until a borrower can refinance through, e.g., the municipal revenue bond market • Eligible borrowers limited to: <ul style="list-style-type: none"> ○ CUDs

	<ul style="list-style-type: none"> ○ ISPs working in conjunction with a CUD as part of a plan ○ ISPs working in conjunction with a municipality that was not part of a CUD prior to December 1, 2020 (limited to 1/6 of total allowable loans) ● Interest and principal deferral period may be extended for up to 3 years ● Specifies it is a revolving loan program
Sec. 11	<p>CUD Trade Secrets</p> <ul style="list-style-type: none"> ● Provides clarification that CUD trade secrets or confidential business information are exempt from disclosure under the Public Records Act until project completion
Secs. 12-15	<p>Property Tax Exemption for Broadband Infrastructure</p> <ul style="list-style-type: none"> ● Exemption from State and local taxation ● Applies to broadband infrastructure that is: ● <u>Owned by an electric distribution utility</u>, and <ul style="list-style-type: none"> ○ Leased to a CUD or to an ISP working in conjunction with a CUD ○ Primarily for the purpose of providing broadband service capable of 100 Mbps symmetrical ○ Constructed on or after July 1, 2021 ● Statutory purpose of the exemptions is to lower the cost of broadband deployment in unserved and underserved areas of Vermont ● Takes effect July 1, 2021
Sec. 16	<p>Broadband Occupational Needs Survey</p> <ul style="list-style-type: none"> ● Conducted by Commissioner of Labor ● To determine workforce needs in communications sector ● To facilitate worker recruitment and establish a talent pipeline to support act's goals ● Report to legislative committees January 15, 2022 ● Employers who do not participate in supplying information for the report will not be eligible for grant funding under this act
Sec. 17	<p>Incumbent Training Program</p> <ul style="list-style-type: none"> ● Established by VTC, in consultation with DOL ● For current communications installers and technicians ● Goal is to provide skills upgrade for existing employees ● Supported by a FY 2022 Training Fund appropriation (up to \$40K) ● There is not a separate General Fund appropriation in this act
Sec. 18	<p>Broadband Installer Apprenticeship Program</p> <ul style="list-style-type: none"> ● Established by the Commissioner of Labor, working with broadband employers ● Shall be a federally registered apprenticeship program

	<ul style="list-style-type: none"> • Program must meet one or more occupational needs related to installation and maintenance of broadband networks
Sec. 19	<p>Utility Poles in Easements Across Private Property</p> <ul style="list-style-type: none"> • Utility easements and State rules regarding utility ROW and pole attachments shall include as an authorized utility use the installation of fiber for broadband service to the public
Sec. 20	<p>Appropriation</p> <ul style="list-style-type: none"> • FY 2022 \$100M from ARPA State Fiscal Relief Fund to VT Community Broadband Fund and expended as specified in 30 V.S.A. chapter 91A
Sec. 21	<p>Legislative Priorities for Federal Funds</p> <ul style="list-style-type: none"> • Federal funds potentially available to the State in FYs 2021 and 2022 • High priority for providing support for community efforts consistent with Board's policies, purposes, and programs
Sec. 22	<p>Effective Dates</p> <ul style="list-style-type: none"> • Effective on passage except: <ul style="list-style-type: none"> ○ Property tax exemption effective July 1, 2021 ○ Repeal of BIG Program and the revised role of the Telecommunication and Connectivity Advisory Board are effective January 1, 2022