

1 S.118

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

4 Referred to Committee on

5 Date:

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

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

14 An act relating to reconstituting the Vermont Telecommunications
15 Authority

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

17 * * * Vermont Telecommunications Authority * * *

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

19 CHAPTER 91A. VERMONT TELECOMMUNICATIONS AUTHORITY

20 § 8081. POLICY AND PURPOSE

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

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

15 § 8082. ESTABLISHMENT AND ORGANIZATION

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

20 (b) The Authority shall have a Board of Directors of nine members as
21 follows:

- 1 (1) the Chair and Chief Executive Officer of the Authority;
2 (2) the Commissioner of Public Service or designee;
3 (3) the Treasurer or designee;
4 (4) one public member selected by the Vermont Communications Union
5 District Association;
6 (5) one public member selected by the Telephone Association of
7 Vermont;
8 (6) two public members appointed by the Governor, who shall not be
9 employees or officers of the State at the time of appointment;
10 (7) one member of the House of Representatives appointed by the
11 Speaker of the House; and
12 (8) one member of the Senate appointed by the Senate Committee on
13 Committees.
14 (c) In making appointments of public members, the appointing authorities
15 shall give consideration to citizens of the State with knowledge of
16 communications technology; communications law and policy; broadband
17 deployment in rural, high-cost areas; finance; and electric utility law and
18 policy.
19 (d) The public members shall serve terms of three years beginning on
20 February 1 of the year of appointment. However, the public members first
21 appointed by the Governor shall serve initial terms of one year; and the

1 members first appointed by the Speaker of the House and the Committee on
2 Committees shall serve initial terms of two years. A vacancy occurring among
3 the public members shall be filled by the respective appointing authority for
4 the balance of the unexpired term. A member may be reappointed.

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

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

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

19 (h) In addition to serving as the Chair of the Board, the Chief Executive
20 Officer shall direct and supervise the Authority's administrative affairs and

1 technical activities in accordance with any rules and policies set forth by the
2 Authority. In addition to any other duties, the Chief Executive Officer shall:

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

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

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

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

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

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

17 § 8083. VERMONT TELECOMMUNICATIONS FUND

18 There is created a special fund in the State Treasury to be known as the
19 “Vermont Telecommunications Fund.” The Fund shall be administered by the
20 Authority and expenditures therefrom shall only be made to implement and
21 effectuate the policies, purposes, and programs of this chapter. The Fund shall

1 be composed of any monies from time to time appropriated to the Fund by the
2 General Assembly or received from any other source, private or public,
3 approved by the Authority. Unexpended balances and any earnings shall
4 remain in the Fund for use in accord with the purposes of this chapter.

5 § 8084. GENERAL POWERS AND DUTIES; CONFIDENTIALITY

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

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

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

18 (3) provide resources to broadband and mobile telecommunications
19 providers in the form of administrative and technical support as well as
20 through grants, loans, and other forms of financial assistance consistent with
21 the purposes and provisions of the chapter;

1 (4) administer the High-Cost Program and the Connectivity Initiative
2 established in chapter 88 of this title.

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

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

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

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

17 (9) consult with agencies and departments regarding the establishment
18 or modification of taxes and fees applicable to communications providers,
19 including the establishment of criteria for the waiver of such taxes and fees
20 when providers offer to furnish comparable value to the State to meet the
21 public good;

1 (10) assist providers with pursuing route identification for fiber-optic
2 infrastructure and with obtaining pole surveys and negotiating pole
3 attachments, as appropriate;

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

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

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

20 (14) create and maintain an inventory of pole data;

1 (15) develop the State’s Telecommunications Plan required by section
2 202d of this title and subject to the provisions in subsection (c) of this section;

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

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

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

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

18 (c) It is imperative that the State has an up-to-date and comprehensive
19 Telecommunications Plan to inform State policy decisions. It is the intent of
20 the General Assembly to ensure the Authority has the time and resources
21 needed to develop the State’s Telecommunications Plan as required under

1 section 202d of this title. Accordingly, the Chair shall notify the relevant
2 legislative standing committees of jurisdiction as soon as reasonably
3 practicable if additional time or resources are needed to complete the Plan as
4 statutorily required. Failure to comply with the requirements of this subsection
5 shall be taken into consideration by the full Senate at a subsequent
6 confirmation hearing of the Chair.

7 § 8085. COMMUNICATIONS INFRASTRUCTURE REVOLVING LOAN
8 PROGRAM

9 (a) The Authority shall establish the Communications Infrastructure
10 Revolving Loan Program. The purpose of the Program is to provide a
11 continuous source of capital for mobile telecommunications and broadband
12 projects, particularly for start-up and expansion of networks. The Program
13 shall offer financing consistent with the funding parameters established in
14 section 8086 of this chapter and the availability of funds in the Vermont
15 Telecommunications Fund established in section 8083 of this chapter. Such
16 financing may take the form of credit enhancements, loan loss reserves,
17 subordinated debt, and any other financing mechanisms and incentives
18 consistent with the Program's purpose, including the provision of equity
19 necessary to secure lending from other entities. Loans under this Program
20 shall be made upon such terms and conditions as may reasonably be expected
21 to be fulfilled by the borrower.

1 (b) It is the intent of the General Assembly that this Program is used to
2 provide financing to projects that might not otherwise have access to capital
3 initially but that demonstrate an economically sustainable business model and
4 that ultimately will be eligible for private or municipal financing.

5 § 8086. FUND ALLOCATIONS; ELIGIBILITY; REQUIREMENTS

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

9 (1) communications union districts;

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

12 (3) electric cooperatives; and

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

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

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

20 (1) if they are for broadband service, support service that provides
21 minimum broadband speeds of 25 Mbps download and 3 Mbps upload and that

1 are capable of being upgraded to meet the State's broadband goal established
2 in subdivision 202c(b)(10) of this title; and

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

7 § 8087. BROADBAND CORPS

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

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

18 § 8088. INTERAGENCY COOPERATION AND ASSISTANCE

19 (a) Other departments and agencies of State government, including the E-
20 911 Board, shall assist and cooperate with the Authority and shall make
21 available to it information and data as needed to assist the Authority in

1 carrying out its duties. The Secretary of Administration shall establish
2 protocols and agreements among the Authority and departments and agencies
3 of the State for this purpose. Nothing in this section shall be construed to
4 waive any privilege or protection otherwise afforded to the data and
5 information under exemptions to the public records act or under other laws due
6 solely to the fact that the information or data is shared with the Authority
7 pursuant to this section.

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

16 § 8089. ANNUAL AND QUARERLY REPORTS

17 (a) Annual report. On or before January 15 of each year, the Authority
18 shall submit a report of its activities pursuant to this chapter for the preceding
19 year to the Senate Committee on Finance, the House Committee on Energy and
20 Technology, and the Joint Information Technology Oversight Committee. The
21 report shall include an operating and financial statement covering the

1 Authority's operations during the year, including a summary of all grant
2 awards and contracts and agreements entered into by the Authority. In its
3 annual report submitted in 2022, the Authority shall include any
4 recommendations related to State policy and planning it deems appropriate,
5 and also shall include a specific recommendation regarding a reasonable
6 timeframe for achieving the State's goal of 100 Mbps symmetrical service at
7 all Vermont locations as required by 30 V.S.A. § 202c(b)(10).

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

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

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

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

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

20 (5) a current business plan for the Authority, including an explanation of
21 significant changes subsequent to the most recent previous report; and

1 (6) identification of the impact of its activities on existing mobile
2 telecommunications and Internet service providers.

3 § 8089a. SUNSET; TRANSFER PLAN

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

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

10 Sec. 2. ORGANIZATIONAL MEETING; SPACE ALLOCATION;

11 TRANSITIONAL PROVISIONS

12 (a) Within 60 days of the effective date of this act, the Vermont
13 Telecommunications Authority Board of Directors shall hold its initial
14 organizational meeting. The Commissioner of Public Service shall serve as the
15 Chair until a Chief Executive Officer is hired. The Department of Public
16 Service shall provide administrative support to the Authority for 180 days
17 commencing on the date of the Authority's initial organizational meeting,
18 which shall be paid for from the Vermont Telecommunications Fund
19 established in Sec. 1 of this act.

1 (b) Within 60 days of the effective date of this act, the Commissioner of
2 Buildings and General Services shall allocate space for the Vermont
3 Telecommunications Authority established in Sec. 1 of this act.

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

11 Sec. 3. REPEAL

12 30 V.S.A. § 202f (Telecommunications and Connectivity Advisory Board)
13 is repealed.

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

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

16 § 3084. CONFIDENTIALITY

17 The purpose of this section is to clarify that any records or information
18 produced or acquired by a district that are trade secrets or confidential business
19 information shall be exempt from public inspection and copying pursuant to
20 1 V.S.A. 317(c)(9). A district may share such information with the Vermont
21 Telecommunications Authority, the Vermont Communications Union District

1 Authority, or with a private partner or contractor for the purpose of developing
2 and constructing broadband projects, provided that the recipient agrees to
3 maintain the confidentiality and privileged status of the document, material, or
4 other information Such records or information shall be available for public
5 inspection after project completion.

6 * * Study; VTA Bonding Authority * * *

7 Sec. 5. STUDY; VTA BONDING AUTHORITY

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

14 * * * Appropriation * * *

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

16 APPROPRIATION

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

1 * * * Effective Date * * *

2 Sec. 7. EFFECTIVE DATE

3 This act shall take effect on passage.