

1 Introduced by Committee on Energy and Technology

2 Referred to Committee on

3 Date:

4 Subject: Telecommunications; Vermont Universal Service Fund;

5 communications union districts; electric utilities; broadband grants

6 and loans; municipal broadband deployment

7 Statement of purpose of bill as introduced: This bill proposes to establish

8 measures designed to promote the deployment of broadband Internet access

9 service throughout the State.

10 An act relating to broadband deployment throughout Vermont

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

12 * * * VUSF; Rate Increase; Connectivity Fund; CUD Specialist * * *

13 Sec. 1. 30 V.S.A. § 7523 is amended to read:

14 § 7523. RATE OF CHARGE

15 (a) Beginning on July 1, 2014, the rate of charge shall be two percent of
16 retail telecommunications service.

17 (b) Beginning on July 1, 2019 and ending on June 30, 2023, the rate of
18 charge established under subsection (a) of this section shall be increased by
19 one-half of one percent of retail telecommunications service, and the monies

1 collected from this increase shall be transferred to the Connectivity Fund
2 established under section 7516 of this title.

3 (c) Universal Service Charges imposed and collected by the fiscal agent
4 under this subchapter shall not be transferred to any other fund or used to
5 support the cost of any activity other than in the manner authorized by this
6 section and section 7511 of this title.

7 Sec. 2. 30 V.S.A. § 7516 is amended to read:

8 § 7516. CONNECTIVITY FUND

9 (a) There is created a Connectivity Fund for the purpose of providing
10 support to the High-Cost Program established under section 7515 of this
11 chapter and the Connectivity Initiative established under section 7515b of this
12 chapter. The fiscal agent shall determine annually, on or before September 1,
13 the amount of monies available to the Connectivity Fund. Such funds shall be
14 apportioned as follows: 45 percent to the High-Cost Program and 55 percent
15 to the Connectivity Initiative.

16 (b) Of the money transferred to the Connectivity Fund pursuant to
17 subsection 7523(b) of this title, \$150,000.00 shall be appropriated annually to
18 the Department of Public Service to fund a full-time employee whose duties
19 shall include providing technical assistance and other support services to
20 communications union districts established pursuant to chapter 82 of this title.

21 * * * VUSF; Prepaid Wireless; Point of Sale * * *

1 Sec. 3. 30 V.S.A. § 7521(d) is amended to read:

2 ~~(d)(1) Notwithstanding any other provision of law to the contrary,~~
3 ~~beginning on September 1, 2014, in the case of prepaid wireless~~
4 ~~telecommunications service, the Universal Service Charge shall be imposed as~~
5 ~~follows:~~

6 ~~(A) If the provider sells directly to a consumer in a retail transaction,~~
7 ~~the provider may collect the Charge from the customer at the rate specified in~~
8 ~~section 7523 of this title; or~~

9 ~~(B) if the provider does not sell directly to the consumer, or if the~~
10 ~~provider sells directly to the customer in a retail transaction but elects not to~~
11 ~~collect the Charge from the customer, the Charge shall be imposed on the~~
12 ~~provider at the rate determined in subdivision (2) of this subsection (d).~~

13 ~~(2) The Public Utility Commission shall establish a formula to ensure~~
14 ~~the Universal Service Charge rate imposed on prepaid wireless~~
15 ~~telecommunications service providers under subdivision (1)(B) of this~~
16 ~~subsection reflects two percent of retail prepaid wireless telecommunications~~
17 ~~service in Vermont.~~

18 ~~(3) As used in this subsection, “prepaid wireless telecommunications~~
19 ~~service” means a telecommunications service as defined in subdivision 203(5)~~
20 ~~of this title that a consumer pays for in advance and that is sold in~~
21 ~~predetermined units or dollars that decline with use. [Repealed.]~~

1 Sec. 4. 30 V.S.A. § 7521(e) is added to read:

2 (e)(1) Notwithstanding any other provision of law to the contrary,
3 beginning on January 1, 2020, the universal service charge shall be imposed on
4 all retail sales of prepaid wireless telecommunications service subject to the
5 sales and use tax imposed under 32 V.S.A. chapter 233. The charges shall be
6 collected by sellers and remitted to the Department of Taxes in the manner
7 provided under 32 V.S.A. chapter 233. Upon receipt of the charges, the
8 Department of Taxes shall have 30 days to remit the funds to the fiscal agent
9 selected under section 7503 of this chapter. The Commissioner of Taxes shall
10 establish registration and payment procedures applicable to the universal
11 service charge imposed under this subsection consistent with the registration
12 and payment procedures that apply to the sales tax imposed on such services.

13 (2) If a minimal amount of prepaid wireless telecommunications service
14 is sold with a prepaid wireless device for a single, nonitemized price, then the
15 seller may elect not to apply the charge to such transaction.

16 (3) As used in this subsection:

17 (A) “Minimal amount” means an amount of service denominated as
18 not more than 10 minutes or not more than \$5.00.

19 (B) “Prepaid wireless telecommunications service” means a
20 telecommunications service as defined in subdivision 203(5) of this title that a

1 consumer pays for in advance and that is sold in predetermined units or dollars
2 that decline with use.

3 (C) “Seller” means a person who sells prepaid wireless
4 telecommunications service to a consumer.

5 * * * One-Time Appropriations; Broadband Studies and Grants * * *

6 Sec. 5. 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. D.101 is amended to
7 read:

8 Sec. D. 101 FUND TRANSFERS, REVERSIONS, AND RESERVES

9 * * *

10 (a) Notwithstanding any other provision of law, the following amounts are
11 transferred from the funds indicated:

12 * * *

13 (5) From the General Fund to the Connectivity Fund established
14 pursuant to 30 V.S.A. § 7516: \$955,000.

15 (A) The amount transferred pursuant to this subdivision (5) shall be
16 allocated as follows:

17 (i) \$600,000 to the Department of Public Service to fund grants
18 for communications union district feasibility studies.

19 (ii) \$305,000 to fund grants through the Connectivity Initiative as
20 provided in 30 V.S.A. §7515b(b).

1 § 1913. COMMUNICATIONS PLANT; OPERATION AND REGULATION

2 (a) A municipality shall operate its communications plant in accordance
3 with the applicable State and federal law and regulation, and chapter 53 of this
4 title, relating to municipal indebtedness, with regard to the financing,
5 improvements, expansion, and disposal of the municipal communications plant
6 and its operations. However, the powers conferred by such provisions of law
7 shall be supplemental to, construed in harmony with, and not in restriction of,
8 the powers conferred in this chapter.

9 (b) A municipality's operation of any communications plant shall be
10 supported solely by the revenues derived from the operation of such
11 communications plant, except that portion which is used for its own municipal
12 purposes.

13 (c) A municipality may finance any capital improvement related to its
14 operation of such communications plant for the benefit of the people of the
15 municipality in accordance with the provisions of chapter 53 of this title,
16 provided that revenue-backed bonds shall be paid from net revenues derived
17 from the operation of the communications plant, except as provided for in
18 subsection (d) of this section.

19 (d) A municipality may finance with general obligation bonds any capital
20 improvement related to the operation of a communications plant for the benefit

1 of the persons of the municipality in accordance with the provisions of chapter
2 53 of this title provided all of the following criteria are met:

3 (1) The improvements to a communications plant are capable of
4 providing Internet service at speeds that are not less than the speed
5 requirements established under 30 V.S.A. § 7515b(a), pertaining to the
6 Connectivity Initiative.

7 (2) The improvements to a communications plant are made for the sole
8 purpose of providing Internet service to any location or locations within the
9 issuing municipality that are “unserved” or “underserved” as those terms are
10 defined in 30 V.S.A. § 7515b(a), pertaining to the Connectivity Initiative, and
11 are substantiated as underserved by the Department of Public Service.

12 (3) The issuing municipality first issues a request for proposals seeking
13 an Internet service provider to serve unserved and underserved locations
14 targeted by the issuing municipality. A communications union district
15 established under 30 V.S.A. chapter 82, or its agent, may respond to a request
16 for proposal if the issuing municipality is located within the district or is
17 contiguous with the town limits of a district member, pursuant to 30 V.S.A.
18 § 3054(a)(8). Prior to issuance of any bonds, the municipality shall select from
19 among respondents a vendor to manage and maintain the communications
20 plant and provide Internet service. The municipality’s contract with such
21 vendor shall be for a minimum term of five years.

1 (4) The issuing municipality shall retain ownership of the
2 communications plant for the duration of the bond repayment period, unless
3 sale or transfer of the assets results in full repayment of the outstanding debt.

4 (5) To every extent possible, bonds issued pursuant to this subsection
5 shall be repaid with net revenues generated by the communications plant and
6 accruing to the municipality.

7 (e) Any restriction regarding the maximum outstanding debt that may be
8 issued in the form of general obligation bonds shall not restrict the issuance of
9 any bonds issued by a municipality and payable out of the net revenues from
10 the operation of a public utility project under chapter 53, subchapter 2 of
11 ~~chapter 53~~ of this title.

12 ~~(e)~~(f) To the extent that a municipality constructs communication
13 infrastructure with the intent of providing communications services, whether
14 wholesale or retail, the municipality shall ensure that any and all losses from
15 these businesses, or in the event these businesses are abandoned or curtailed,
16 any and all costs associated with the investment in communications
17 infrastructure, are not borne by the municipality's taxpayers.

18 Sec. 8. 30 V.S.A. § 3056 is amended to read:

19 § 3056. LIMITATIONS; TAXES; INDEBTEDNESS

1 (a) Notwithstanding any grant of authority in this chapter to the contrary, a
2 district shall not accept funds generated by a member's taxing or assessment
3 power.

4 (b) Notwithstanding any grant of authority in this chapter to the contrary, a
5 district shall not have the power to levy, assess, apportion, or collect any tax
6 upon property within the district, nor upon any of its members, without
7 specific authorization of the General Assembly.

8 ~~(c) Notwithstanding any grant of authority in this chapter to the contrary,~~
9 ~~every issue of a district's notes and bonds shall be payable only out of any~~
10 ~~revenues or monies of the district.~~

11 Sec. 9. 30 V.S.A. § 3076 is amended to read:

12 § 3076. INDEBTEDNESS

13 The board may borrow money through the issuance of notes of the district
14 for the purpose of paying current expenses of the district. Such notes shall
15 mature within one year, and may be refunded in the manner provided by law;
16 ~~and shall be payable solely from the district's operating revenues.~~ The
17 governing board may borrow money in anticipation of the receipt of grants-in-
18 aid from any source and any revenues. Such notes shall mature within one
19 year, but may be renewed as provided by general law.

1 Sec. 10. [Chesterfield Bonding Language – TBD]

2 * * * VEDA; Broadband Expansion Loan Program * * *

3 Sec. 11. 10 V.S.A. chapter 12, subchapter 14 is added to read:

4 Subchapter 14. Broadband Expansion Loan Program

5 § 280ee. FINDINGS

6 The General Assembly finds that:

7 (1) Department of Public Service data indicates that seven percent of
8 Vermont addresses do not have access to the most basic high-speed Internet
9 access, which is 4 Mbps download and 1 Mbps upload. Nearly 20 percent of
10 Vermont addresses lack access to modern Internet speeds of 10 Mbps
11 download and 1 Mbps upload.

12 (2) Reaching the last mile will require a grassroots approach that is
13 founded on input and support of local communities, whose residents are best
14 situated to decide what broadband solution fits their needs.

15 (3) Existing Internet service providers are not providing adequate
16 service to many rural areas where fewer potential customers reduce the
17 profitability necessary to justify system expansion.

18 (4) Multiple communities have attempted to implement their own
19 unique solutions outside of traditional delivery methods but have been
20 hampered by a lack of access to capital. Existing broadband grant programs do
21 not offer the scale to solve this problem, and banks and investors typically shy

1 away from start-up businesses with limited revenue history and little equity or
2 collateral.

3 (5) Community broadband solutions typically mean partnering with a
4 new business that must design and build a network, which is followed by a 12-
5 to 24-month process of customer acquisition.

6 § 280ff. 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 Internet access
10 service to unserved and underserved Vermonters.

11 (b) Intent. It is understood that loans under the Program are high-risk loans
12 to likely start-up businesses and therefore losses in the Program will be much
13 higher than the Authority’s historical loss rate. Loans shall be underwritten by
14 the Authority utilizing more lenient underwriting parameters; however, the
15 Authority shall not make a loan unless the Authority has a reasonable
16 expectation of the long-term viability of the business.

17 (c)(1) Requirements. The Program shall make loans for start-up and
18 expansion that enable the Internet service providers to expand broadband
19 availability in unserved and underserved locations.

1 (2) The Authority shall adopt by rule standards and procedures for the
2 Program necessary to ensure the expansion of broadband availability to the
3 largest number of Vermont addresses as possible. The rules shall specify that:

4 (A) loans may be made in an amount of up to \$1,800,000.00;

5 (B) eligible borrowers include units of government, nonprofit
6 organizations, cooperatives, and for-profit businesses;

7 (C) borrowers may borrow up to 90 percent of project costs;

8 (D) interest and principal may be deferred up to two years; and

9 (E) a maximum of \$10,800,000.00 in Authority loans may be made
10 under the Program commencing on the effective date of this act.

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

15 (A) ensure that the provider offers service at speeds of at least
16 25 Mbps download and 3 Mbps upload to all customers;

17 (B) certify that 33 percent of the provider’s potential customers have
18 access to broadband at speeds that are less than 10 Mbps download and
19 1 Mbps upload; and

1 (C) certify that at least 10 percent of the potential customers of a
2 provider have access to broadband at speeds that are less than 4 Mbps
3 download and 1 Mbps upload.

4 § 280gg. FUNDING

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

9 (b) Repayment from or appropriation to the Authority in years 2021 and
10 until the Program terminates is based on the Authority’s contributions to loan
11 loss reserves for the Program in accordance with generally accepted
12 accounting principles.

13 (1) In fiscal year 2020, an appropriation in the amount of \$540,000.00
14 shall be made to the Agency of Commerce and Community Development to
15 provide the Authority with estimated loan losses incurred by the Authority in
16 calendar year 2020. Any difference between the actual loan losses incurred by
17 the Authority in fiscal year 2020 through Program termination shall be
18 adjusted in the following year’s appropriation.

19 (2) The Program shall terminate when all borrowers enrolled in the
20 Program have repaid in full or loans have been charged-off against the reserves
21 of the Authority.

1 (3) 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.

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

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

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

9 Sec. 12. FISCAL YEAR 2019 ONE-TIME GENERAL FUND

10 APPROPRIATIONS

11 To the Agency of Commerce and Community Development, \$540,000.00 is
12 appropriated to grant to the Vermont Economic Development Authority to
13 serve as loan reserves to administer a Broadband Expansion Loan Program,
14 providing start-up capital to alternative broadband providers.

15 Sec. 13. 10 V.S.A. § 219(d) is amended to read:

16 (d) In order to ensure the maintenance of the debt service reserve
17 requirement in each debt service reserve fund established by the Authority,
18 there may be appropriated annually and paid to the Authority for deposit in
19 each such fund, such sum as shall be certified by the Chair of the Authority, to
20 the Governor, the President of the Senate, and the Speaker of the House, as is
21 necessary to restore each such debt service reserve fund to an amount equal to

1 the debt service reserve requirement for such fund. The Chair shall annually,
2 on or about February 1, make, execute, and deliver to the Governor, the
3 President of the Senate, and the Speaker of the House, a certificate stating the
4 sum required to restore each such debt service reserve fund to the amount
5 aforesaid, and the sum so certified may be appropriated, and if appropriated,
6 shall be paid to the Authority during the then current State fiscal year. The
7 principal amount of bonds or notes outstanding at any one time and secured in
8 whole or in part by a debt service reserve fund to which State funds may be
9 appropriated pursuant to this subsection shall not exceed ~~\$175,000,000.00~~
10 \$181,000,000.00, provided that the foregoing shall not impair the obligation of
11 any contract or contracts entered into by the Authority in contravention of the
12 Constitution of the United States.

13 Sec. 14. 30 V.S.A. § 8064(a)(1) is amended to read:

14 (a)(1) The Authority may issue its negotiable notes and bonds in such
15 principal amount as the Authority determines to be necessary to provide
16 sufficient funds for achieving any of its corporate purposes, including the
17 payment of interest on notes and bonds of the Authority, establishment of
18 reserves to secure the notes and bonds including the reserve funds created
19 under section 8065 of this title, and all other expenditures of the Authority
20 incident to and necessary or convenient to carry out its corporate purposes and
21 powers. However, the bonds or notes of the Authority outstanding at any one

1 time shall not exceed ~~\$40,000,000.00~~ \$34,000,000.00. No bonds shall be
2 issued under this section without the prior approval of the Governor and the
3 State Treasurer or their respective designees. In addition, before the Authority
4 may initially exercise its bonding authority granted by this section, it shall
5 submit to the Emergency Board of the State a current business plan, including
6 an explanation of the bond issue or issues initially proposed.

7 * * * Pole Attachments * * *

8 Sec. 15. [POLE ATTACHMENTS – TBD]

9 (a) On or before June 1, 2019, the Public Utility Commission shall initiate
10 a rulemaking proceeding to revise its rules governing pole attachments, Rule
11 3.700, et seq., with the goal of expediting the use of facilities by
12 telecommunications service providers able to offer and expand broadband
13 throughout the State. Among other things, the Commission shall consider:

14 (1) one-touch make-ready policies for pole attachments;

15 (2) the June 29, 2015 petition of the Maine Office of the Public
16 Advocate filed with the Maine Public Utilities Commission; in particular,
17 Attachment A to the petition and its proposed revisions to Maine’s pole
18 attachment rules;

19 (3) measures designed to minimize delays and costs and promote fair
20 and reasonable rates and the rapid resolution of disputes;

1 (4) standards and procedures that will provide clarity for when a make-
2 ready completion period commences and ends; and

3 (5) any other standards or procedures deemed relevant by the
4 Commission.

5 (b) The rules adopted pursuant to this section shall specify that:

6 (1) The applicable make-ready completion period shall not be extended
7 solely because a utility pole is jointly owned.

8 (2) If the make-ready work is not completed within the applicable make-
9 ready completion period, the attaching entity may hire a qualified contractor to
10 complete the make-ready work and bill back any costs incurred to the pole
11 owner or owners, as applicable.

12 * * * Electric Utilities; Broadband Pilot Projects * * *

13 Sec. 16. **ELECTRIC UTILITIES; BROADBAND PILOT PROJECTS**

14 (a) The Commissioner of Public Service, in collaboration with the
15 Secretary of the Agency of Commerce and Community Development and the
16 Vermont Electric Power Company (VELCO), shall oversee the implementation
17 of two broadband market feasibility pilot projects to be implement by two
18 different Vermont distribution utilities.

19 (b) The goal of these projects is to determine market feasibility of
20 implementing broadband, as defined by [TBD] in rural and underserved
21 Vermont municipalities using electric company infrastructure.

1 (c) On or before September 1, 2019, the Commissioner shall issue a request
2 for proposals and shall make project awards on or before November 1, 2019.
3 Projects funded under this section shall be completed not later than June 1,
4 2020.

5 (d) A sum of \$100,000 is allocated from [TBD] to fund the feasibility pilot
6 projects authorized by this section.

7 * * * Department of Public Service; CUD Specialist * * *

8 Sec. 17. COMMUNICATIONS UNION DISTRICT SPECIALIST

9 One new classified limited service position, Communications Union District
10 Specialist, is authorized to be established within the Department of Public
11 Service in fiscal year 2020. Beginning in fiscal year 2020, this position shall
12 be funded for a period of four years as provided under 30 V.S.A. § 7516(b).

13 * * * Effective Dates * * *

14 Sec. 18. EFFECTIVE DATE

15 This act shall take effect on passage, except that Sec. 3 (repeal of prepaid
16 wireless revenue surcharge) shall take effect on January 1, 2020.