

1 All proposals in this draft are subject to final approval by the Committee on
2 Finance. This draft reflects Committee discussion primarily related to the
3 governance and administration of new ARPA-funded programs. Remaining
4 provisions of H.360 as passed the House are TBD.
5

6 * * * Vermont Community Broadband Fund* * *

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

8 CHAPTER 91A: VERMONT COMMUNITY BROADBAND FUND

9 § 8081. PURPOSE AND INTENT

10 (a) Purpose. In recognition of the historic level of broadband funding
11 currently available to the State and the critical need for broadband access and
12 adoption, it is the purpose of this chapter to establish the Vermont Community
13 Broadband Fund to support policies and programs designed to accelerate
14 community efforts that advance the State’s goal of achieving universal access
15 to reliable, high-quality, affordable broadband.

16 (b) Intent. It is the intent of the General Assembly that a broadband project
17 financed pursuant to this chapter demonstrates an economically sustainable
18 business model that ultimately will be eligible for financing in the private or
19 municipal bond market.

20 § 8082. DEFINITIONS

21 As used in this chapter:

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

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

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

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

10 (5) “Eligible provider” means a:

11 (A) communications union district [*or other municipality?*];

12 (B) small telecommunications carrier; or

13 (C) communications union district in partnership with:

14 (i) one or more other communications union districts;

15 (ii) an Internet service provider; or

16 (iii) an electric transmission or distribution utility.

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

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

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

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

5 (10) “Small telecommunications carrier” means a carrier that has elected
6 to be regulated under subsection 227d(a) of this title.

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

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

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

17 § 8083. VERMONT COMMUNITY BROADBAND FUND

18 (a) There is created a special fund in the State Treasury to be known as the
19 “Vermont Community Broadband Fund.” Expenditures from the Fund shall be
20 made only to implement and effectuate the policies, purposes, and programs
21 established in this chapter. The Fund shall be composed of any monies from

1 time to time appropriated to the Fund by the General Assembly or received
2 from any other source, private or public, subject to the provisions of 32 V.S.A.
3 § 5. Unexpended balances and any earnings shall remain in the Fund for use in
4 accord with the purposes of this chapter.

5 (b) Authorized expenditures from the Fund include:

6 (1) grants pursuant to the Broadband Preconstruction Grant Program
7 established in section 8086 of this chapter;

8 (2) grants pursuant to the Broadband Construction Grant Program
9 established in section 8087 of this chapter;

10 (3) \$500,000.00 to the Department of Libraries for equipment
11 replacement in the FiberConnect Network; [TBD]

12 (4) \$3,000,000.00 to the Department of Housing and Community
13 Development to award grants to nonprofits and housing authorities for
14 building-wide Wi-Fi installations to provide free broadband service to the
15 residents of multi-unit affordable housing; [TBD]

16 (5) \$5,000,000.00 to provide grants for affordability long-term planning
17 and digital inclusion activities for a period of four years; [TBD]

18 (6) \$XXX to support broadband adoption by subsidizing customer
19 equipment installations and services until December 31, 2024 or until all funds
20 are expended, whichever occurs first; [TBD]

1 (7) \$XXX to fund the digital inclusion efforts of a broadband corp.;

2 [TBD]

3 (8) \$100,000.00 to the Department of Labor to fund a broadband
4 occupational needs survey and the broadband installer apprenticeship program;

5 (9) administrative expenses of grant recipients in an amount determined
6 by the Board, subject to applicable federal law and guidance;

7 (10) operational and administrative expenses of the Board; and

8 (11) expenses of the Department related to the administration of the
9 programs authorized by this chapter and not otherwise reimbursable under the
10 Department's annual budget.

11 § 8084. MANAGEMENT OF THE FUND

12 (a) Vermont Community Broadband Fund Board. (1) There is created
13 within the Department of Public Service the Vermont Community Broadband
14 Fund Board. The Board shall have approval authority with respect to budget
15 development, program design, grant awards, and all other funding allocations
16 pursuant to this chapter.

17 (2) The Board shall consist of five members as follows:

18 (A) the Commissioner of Public Service or designee;

19 (B) the Secretary of Commerce and Community Development or
20 designee;

1 (C) one public member appointed by the Governor who shall not be
2 an employee or officer of the State at the time of the appointment and who
3 shall expertise in the area of finance;

4 (D) one public member appointed by the Speaker of the House who
5 shall not be a member of the General Assembly at the time of the appointment
6 and who shall have expertise in the areas of communications law, policy, and
7 technology and in broadband deployment in rural, high-cost areas; and

8 (E) one public member appointed by the Senate Committee on
9 Committees who shall not be a member of the General Assembly at the time of
10 the appointment and who shall have expertise in electric utility law and policy.

11 (3) The public members may not be persons with a financial interest in
12 or owners, employees, or members of a governing board of an Internet service
13 provider or a communications union district; however, this provision shall not
14 be construed to disqualify a member who has ownership in a mutual fund,
15 exchange-traded fund, pension plan, or similar entity that owns shares in such
16 enterprises as part of a broadly diversified portfolio. The public members shall
17 serve terms of three years beginning on February 1 of the year of appointment;
18 however, the public member first appointed by the Governor shall serve an
19 initial term of one year, and the public members first appointed by the Speaker
20 of the House and the Committee on Committees shall serve initial terms of two
21 years. A vacancy occurring among the public members shall be filled by the

1 respective appointing Board for the balance of the unexpired term. A member
2 may be reappointed.

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

11 (5) [Option A] Public members shall be entitled to per diem
12 compensation authorized under 32 V.S.A. § 1010 for each day spent in the
13 performance of their duties, and each member shall be reimbursed for his or
14 her reasonable expenses incurred in carrying out his or her duties under this
15 chapter. [Option B] Public members shall be State employees and shall be
16 exempt from the State classified system. The Chair shall receive compensation
17 equal to that of a Superior judge, and the compensation for the remaining
18 public members shall be two-thirds of the amount received by the Chair.
19 [Option C]– something between \$50/day and \$80-\$110,000/year.

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

4 (A) coordinate and facilitate community broadband efforts;

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

7 (C) provide grants for the preconstruction and construction costs of
8 broadband projects;

9 (D) facilitate partnerships between communications union districts
10 and their potential partners;

11 (E) enter into contracts and apply for grants on behalf of or jointly
12 with one or more communications union districts;

13 (F) consult with the Vermont Economic Development Board and the
14 Vermont Municipal Bond Bank with regard to financing community
15 broadband projects;

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

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) In performing its duties, the Board may use the legal and technical
9 resources of the Department. The Department shall provide the Board with
10 administrative services.

11 (8) Any records or information produced or acquired by the Board that
12 are trade secrets or confidential business information shall be exempt from
13 public inspection and copying pursuant to 1 V.S.A. § 317(c)(9).

14 (b) Fund Manager. (1) The Vermont Community Broadband Fund shall
15 have a fund manager who shall be an employee of the Department of Public
16 Service hired by the Commissioner of Public Service. The Fund Manager shall
17 be overseen and managed by the Board and shall serve as its chief
18 administrative officer. The Fund Manager shall direct and supervise the
19 Board’s administrative affairs and technical activities in accordance with
20 Board policies. In addition to any other duties necessary for carrying out the
21 purposes of this chapter, the Fund Manager shall:

1 (A) attend all meetings of the Board, act as its secretary, and keep
2 minutes of its proceedings;

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

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

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

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

12 (2) The Fund Manager may retain or employ technical experts and other
13 officers, agents, employees, and contractors as are necessary to give effect to
14 the purposes of this chapter, including in the areas of finance, network
15 planning, engineering and technical design, and grant writing, and may fix
16 their qualifications, duties, and compensation. The Fund Manager shall
17 oversee and manage the Rural Broadband Technical Assistance Specialist.
18 The Fund Manager is authorized to hire up to three additional full-time
19 employees pursuant to this subdivision who shall be part of the classified
20 service created in 3 V.S.A. chapter 13.

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

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

14 § 8085. GRANT ELIGIBILITY

15 To be eligible for a preconstruction or construction grant under this chapter,
16 a proposed broadband project must be part of a universal service plan. The
17 Board may award a grant to a project that does not fully implement a universal
18 service plan if the Board finds that the applicant can demonstrate a reasonable
19 likelihood of obtaining additional financing for comprehensive universal
20 service plan implementation.

1 § 8086. BROADBAND PRECONSTRUCTION GRANT PROGRAM

2 (a) There is established the Community Broadband Preconstruction Grant
3 Program to be administered by the Board. The purpose of the Program is to
4 provide grants to *communications union districts* for preconstruction costs
5 related to broadband projects.

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

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

19 (d) To ensure the expeditious allocation of funds prior to the organization
20 of the Vermont Community Broadband Fund Board, the Department is

1 authorized to allocate up to \$9,000,000.00 under this Program on or before
2 September 30, 2021.

3 § 8087. BROADBAND CONSTRUCTION GRANT PROGRAM

4 (a) There is established the Broadband Construction Grant Program to
5 finance the broadband projects of eligible providers.

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

8 (1) leverage existing private resources and assets, with a high priority
9 given to partnerships between a communications union district and a
10 distribution utility [*electric cooperative? Jo's Fiber?*];

11 (2) demonstrate project readiness;

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

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

15 (5) promote geographic diversity of fund allocations;

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

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

19 (c) The Board shall establish policies and standard grant terms and
20 conditions that:

1 (1) ensure grant awards are disbursed based on the value of work
2 completed, or as needed to commence construction;

3 (2) reflect engineering standards that promote network reliability,
4 resiliency, and interoperability and the installation of future-proof
5 technologies;

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

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

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

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

18 (d) Before the Board awards a grant under this section, it shall find that the
19 applicant has produced a detailed business plan for its proposed broadband
20 project, which takes into consideration network engineering and design, labor
21 needs and availability, supply-chain contingencies for equipment and

1 materials, make-ready work, and any other relevant capital and operational
2 expenses.

3 (e) [*Overbuilds (modeled after 8078(b)) (TBD)*] The Board may provide a
4 grant to a project that enables the provision of broadband service in a
5 geographic area currently served, provided that:

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

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

12 (f) The Board may award a grant to an Internet service provider to finance
13 a broadband project, such as a line extension or upgrade, that does not meet the

1 grant eligibility requirements contained in section 8085 of this chapter if it
2 finds that the project:

3 (1) will provide unserved and underserved locations with broadband
4 service capable of speeds of at least 25 Mbps download and 3 Mbps upload on
5 or before December 31, 2021; and

6 (2) is consistent with any existing universal service plan.

7 [Another option: appropriate additional funds to LECAP; \$1.6M of
8 CRF was appropriated in Act 9.]

9 § 8088. CENTRALIZED RESOURCES FOR COMMUNICATIONS UNION

10 DISTRICTS

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

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

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

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

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

5 (4) assist communications union districts with pursuing route
6 identification for fiber-optic infrastructure and with obtaining pole surveys and
7 negotiating pole attachments; and

8 (5) assist communications union districts with completing grant and loan
9 applications

10 § 8089. INTERAGENCY COOPERATION AND ASSISTANCE

11 Other departments and agencies of the State government, including the E-
12 911 Board, shall assist and cooperate with the Board and shall make available
13 to it information and data as needed to assist the Board in carrying out its
14 duties. The Secretary of Administration shall establish protocols and
15 agreements among the Board and departments and agencies of the State for
16 this purpose. Nothing in this section shall be construed to waive any privilege
17 or protection otherwise afforded to the data and information under exemption
18 to the Public Records Act or under other laws due solely to the fact that the
19 information or data is shared with the Board pursuant to this section.

20 § 8089a. ANNUAL REPORT [and quarterly reports?]

1 Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the
2 Board shall submit a report of its activities pursuant to this chapter for the
3 preceding year to the Senate Committee on Finance, the House Committee on
4 Energy and Technology, and the Joint Information Technology Oversight
5 Committee. The report shall include an operating and financial statement
6 covering the Board’s operations during the year, including a summary of all
7 grant awards and contracts and agreements entered into by the Board. In
8 addition, the report shall include a description of the progress each start-up
9 communications union district has made in achieving long-term financial
10 sustainability that is not dependent upon public funding, an update on its
11 efforts to secure additional federal funds for broadband deployment, and
12 progress made towards meeting the State’s goal of ensuring every E-911
13 location has access to broadband capable of delivering a minimum of 100
14 Mbps symmetrical service as required in subdivision 202c(b)(10) of this title.

15 § 8089b. SUNSET; TRANSFER PLAN

16 (a) The Fund and Board shall cease to exist on July 1, 2029.

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

1 Sec. 3. ORGANIZATIONAL MEETING; SPACE ALLOCATION

2 (a) Within 60 days following the effective date of this act, the Vermont
3 Community Broadband Fund Board shall hold its initial organizational
4 meeting.

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

8 Sec. X. APPROPRIATION

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