

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 117 entitled
3 “An act relating to creating a Division for Telecommunications and
4 Connectivity within the Department of Public Service” respectfully reports that
5 it has considered the same and recommends that the Senate propose to the
6 House that the bill be amended by striking out all after the enacting clause and
7 inserting in lieu thereof the following:

8 * * * Division for Telecommunications and Connectivity * * *

9 Sec. 1. REPEAL

10 3 V.S.A. § 2225 (creating the Division for Connectivity within the Agency
11 of Administration) and 2014 Acts and Resolves No. 190, Secs. 12 (Division
12 for Connectivity), 14 (creation of positions; transfer; reemployment rights),
13 and 30(a)(2) and (b) (statutory revision authority regarding the Division for
14 Connectivity) are repealed.

15 Sec. 2. 30 V.S.A. § 1 is amended to read:

16 § 1. COMPOSITION OF DEPARTMENT

17 (a) The ~~department of public service~~ Department of Public Service shall
18 consist of the ~~commissioner of public service, a director for regulated utility~~
19 ~~planning, a director for public advocacy, a director for energy efficiency,~~
20 Commissioner of Public Service, a Director for Regulated Utility Planning,
21 a Director for Public Advocacy, a Director for Energy Efficiency, a Director

1 ~~for Telecommunications and Connectivity,~~ and such other persons as the
2 ~~commissioner~~ Commissioner considers necessary to conduct the business of
3 the ~~department~~ Department.

4 (b) The ~~commissioner of public service~~ Commissioner shall be appointed
5 by the ~~governor~~ Governor with the advice and consent of the ~~senate~~ Senate.

6 The ~~commissioner of public service~~ Commissioner shall serve for a term of
7 two years beginning on February 1 of the year in which the appointment is
8 made. The ~~commissioner~~ Commissioner shall serve at the pleasure of the

9 ~~governor~~ Governor. The ~~directors for regulated utility planning, for energy~~
10 ~~efficiency and for public advocaey~~ Directors for Regulated Utility Planning,

11 for Public Advocacy, and for Energy Efficiency shall be appointed by the

12 ~~commissioner~~ Commissioner. The Director for Telecommunications and

13 Connectivity shall be appointed by the Commissioner in consultation with the

14 Secretary of Administration.

15 (c) The ~~director for public advocaey~~ Directors for Public Advocacy and for

16 Telecommunications and Connectivity may employ, with the approval of the

17 ~~commissioner~~ Commissioner, legal counsel and other experts, and clerical

18 assistance, and the ~~directors of regulated utility planning and energy efficiency~~

19 Directors for Regulated Utility Planning and for Energy Efficiency may

20 employ, with the approval of the ~~commissioner~~ Commissioner, experts and

21 clerical assistance.

1 Sec. 3. 30 V.S.A. § 202d is amended to read:

2 § 202d. TELECOMMUNICATIONS PLAN

3 (a) The Department of Public Service shall constitute the responsible
4 planning agency of the State for the purpose of obtaining for all consumers in
5 the State stable and predictable rates and a technologically advanced
6 telecommunications network serving all service areas in the State. The
7 Department shall be responsible for the provision of plans for meeting
8 emerging trends related to telecommunications technology, markets, financing,
9 and competition.

10 (b) The Department shall prepare a Telecommunications Plan for the State.
11 The Department of Innovation and Information, ~~the Division for Connectivity~~
12 ~~and the Agency of Commerce and Community Development, and the Agency~~
13 ~~of Transportation~~ shall assist the Department of ~~Public Service~~ in preparing the
14 Plan. The Plan shall be for a ten-year period and shall serve as a basis for State
15 telecommunications policy. Prior to preparing the Plan, the Department shall
16 prepare:

17 (1) an overview, looking ten years ahead, of future requirements for
18 telecommunications services, considering services needed for economic
19 development, technological advances, and other trends and factors which, as
20 determined by the Department of Public Service, will significantly affect State
21 telecommunications policy and programs;

1 (2) a survey of Vermont residents and businesses, conducted in
2 cooperation with the Agency of Commerce and Community Development ~~and~~
3 ~~the Division for Connectivity~~, to determine what telecommunications services
4 are needed now and in the succeeding ten years;

5 (3) an assessment of the current state of telecommunications
6 infrastructure;

7 (4) an assessment, conducted in cooperation with the Department of
8 Innovation and Information and the ~~Division for Connectivity~~ Agency of
9 Transportation, of the current State telecommunications system and evaluation
10 of alternative proposals for upgrading the system to provide the best available
11 and affordable technology for use by government; and

12 (5) an assessment of the state of telecommunications networks and
13 services in Vermont relative to other states, including price comparisons for
14 key services and comparisons of the state of technology deployment.

15 (c) In developing the Plan, the Department shall take into account the State
16 telecommunications policies and goals of section 202c of this title.

17 (d) In establishing plans, public hearings shall be held and the Department
18 shall consult with members of the public, representatives of
19 telecommunications utilities with a certificate of public good, other providers,
20 including the Vermont Electric Power Co., Inc. (VELCO), and other interested
21 State agencies, particularly the Agency of Commerce and Community

1 Development, ~~the Division for Connectivity,~~ the Agency of Transportation,
2 and the Department of Innovation and Information, whose views shall be
3 considered in preparation of the Plan. To the extent necessary, the Department
4 shall include in the Plan surveys to determine existing, needed, and desirable
5 plant improvements and extensions, access and coordination between
6 telecommunications providers, methods of operations, and any change that will
7 produce better service or reduce costs. To this end, the Department may
8 require the submission of data by each company subject to supervision by the
9 Public Service Board.

10 (e) Before adopting a Plan, the Department shall conduct public hearings
11 on a final draft and shall consider the testimony presented at such hearings in
12 preparing the final Plan. At least one hearing shall be held jointly with
13 Committees of the General Assembly designated by the General Assembly for
14 this purpose. The Plan shall be adopted by September 1, 2014, and then
15 reviewed and updated as provided in subsection (f) of this section.

16 (f) The Department, from time to time, but in no event less than every three
17 years, shall institute proceedings to review ~~a~~ the Plan and make revisions,
18 where necessary. The three-year major review shall be made according to the
19 procedures established in this section for initial adoption of the Plan. For good
20 cause or upon request by a Joint Resolution passed by the General Assembly,
21 an interim review and revision of any section of the Plan may be made after

1 conducting public hearings on the interim revision. At least one hearing shall
2 be held jointly with Committees of the General Assembly designated by the
3 General Assembly for this purpose.

4 (g) The Department shall review and update the minimum technical service
5 characteristic objectives not less than every three years beginning in 2017. In
6 the event such review is conducted separately from an update of the Plan, the
7 Department shall issue revised minimum technical service characteristic
8 objectives as an amendment to the Plan.

9 Sec. 4. 30 V.S.A. § 202e is added to read:

10 § 202e. TELECOMMUNICATIONS AND CONNECTIVITY

11 (a) Among other powers and duties specified in this title, the Department of
12 Public Service, through the Division for Telecommunications and
13 Connectivity, shall promote:

14 (1) access to affordable broadband service to all residences and
15 businesses in all regions of the State, to be achieved in a manner that is
16 consistent with the State Telecommunications Plan;

17 (2) universal availability of mobile telecommunication services,
18 including voice and high-speed data along roadways, and near universal
19 availability statewide;

20 (3) investment in telecommunications infrastructure in the State that
21 creates or completes the network for service providers to create last-mile

1 connection to the home or business and supports the best available and
2 economically feasible service capabilities;

3 (4) the continuous upgrading of telecommunications and broadband
4 infrastructure in all areas of the State to reflect the rapid evolution in the
5 capabilities of available broadband and mobile telecommunications
6 technologies, the capabilities of broadband and mobile telecommunications
7 services needed by persons, businesses, and institutions in the State; and

8 (5) the most efficient use of both public and private resources through
9 State policies by encouraging the development, funding, and implementation
10 of open access telecommunications infrastructure.

11 (b) To achieve the goals specified in subsection (a) of this section, the
12 Division shall:

13 (1) provide resources to local, regional, public, and private entities in the
14 form of grants, technical assistance, coordination, and other incentives;

15 (2) prioritize the use of existing buildings and structures, historic or
16 otherwise, as sites for visually-neutral placement of mobile
17 telecommunications and wireless broadband antenna facilities;

18 (3) inventory and assess the potential to use federal radio frequency
19 licenses held by instrumentalities of the State to enable broadband service in
20 unserved areas of the State; take steps to promote the use of those licensed
21 radio frequencies for that purpose; and recommend to the General Assembly

1 any further legislative measures with respect to ownership, management, and
2 use of these licenses as would promote the general good of the State;

3 (4) coordinate telecommunications initiatives among Executive Branch
4 agencies, departments, and offices;

5 (5) identify the types and locations of infrastructure and services needed
6 to carry out the goals stated in subsection (a) of this section;

7 (6) formulate, with the advice and assistance of the Telecommunications
8 and Connectivity Board and with input from the Regional Planning
9 Commissions, an action plan that conforms with the State Telecommunications
10 Plan, as updated and revised, and carries out the goals stated in subsection (a)
11 of this section;

12 (7) coordinate the agencies of the State to make public resources
13 available to support the extension of broadband and mobile
14 telecommunications infrastructure and services to all unserved and
15 underserved areas;

16 (8) support and facilitate initiatives to extend the availability of
17 broadband and mobile telecommunications, and promote development of the
18 infrastructure that enables the provision of these services;

19 (9) work cooperatively with the Agency of Transportation and the
20 Department of Buildings and General Services to assist in making available
21 transportation rights-of-way and other State facilities and infrastructure for

1 telecommunications projects in conformity with applicable federal statutes and
2 regulations; and

3 (10) receive all technical and administrative assistance as deemed
4 necessary by the Director for Telecommunications and Connectivity.

5 (c)(1) The Director may request from telecommunications service
6 providers voluntary disclosure of information regarding deployment of
7 broadband, telecommunications facilities, or advanced metering infrastructure
8 that is not publicly funded. Such information may include data identifying
9 projected coverage areas, projected average speed of service, service type, and
10 the anticipated date of completion in addition to identifying the location and
11 routes of proposed cables, wires, and telecommunications facilities.

12 (2) The Director may enter into a nondisclosure agreement with respect
13 to any voluntary disclosures under this subsection, and the information
14 disclosed pursuant thereto shall remain confidential. Alternatively, entities that
15 voluntarily provide information requested under this subsection may select a
16 third party to be the recipient of such information. The third party may
17 aggregate information provided by the entities, but shall not disclose
18 provider-specific information it has received under this subsection to any
19 person, including the Director. The third party shall only disclose the
20 aggregated information to the Director. The Director may publicly disclose
21 aggregated information based upon the information provided under this

1 subsection. The confidentiality requirements of this subsection shall not affect
2 whether information provided to any agency of the State or a political
3 subdivision of the State pursuant to other laws is or is not subject to disclosure.

4 (d) The Division shall only promote the expansion of broadband services
5 that offer actual speeds that meet or exceed the minimum technical service
6 characteristic objectives contained in the State’s Telecommunications Plan.

7 (e) Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year,
8 the Director, with the advice and assistance of the Telecommunications and
9 Connectivity Board, shall submit a report of its activities pursuant to this
10 section and duties of title 30 V.S.A. subsection 202f (f) for the preceding fiscal
11 year to the General Assembly. Each report shall include an operating and
12 financial statement covering the Division’s operations during the year,
13 including a summary of all grant awards and contracts and agreements entered
14 into by the Division, as well as the action plan required under subdivision
15 (b)(6) of this section. In addition, the report shall include an accurate map and
16 narrative description of each of the following:

17 (1) the areas served and the areas not served by broadband that has a
18 download speed of at least 4 Mbps and an upload speed of at least 1 Mbps, and
19 cost estimates for providing such service to unserved areas;

20 (2) the areas served and the areas not served by broadband that has a
21 download speed of at least 25 Mbps and an upload speed of at least 3 Mbps, or

1 as defined by the FCC in its annual report to Congress required by section 706
2 of the Telecommunications Act of 1996, whichever is higher, and the cost
3 estimates for providing such service to unserved areas;

4 (3) the areas served and the areas not served by broadband that has a
5 download speed of at least 100 Mbps and is symmetrical, and the cost
6 estimates for providing such service to unserved areas; and

7 (4) if monetarily feasible, the areas served and the areas not served by
8 wireless communications service, and cost estimates for providing such service
9 to unserved areas.

10 Sec. 5. 30 V.S.A. § 202f is added to read:

11 § 202f. TELECOMMUNICATIONS AND CONNECTIVITY **ADVISORY**

12 BOARD

13 (a) There is created a Telecommunications and Connectivity **Advisory**
14 Board for the purpose of making recommendations to the Commissioner of
15 Public Service regarding his or her telecommunications responsibilities and
16 duties as provided in this section. The Connectivity Advisory Board shall
17 consist of **eight members, seven** voting and one nonvoting, selected as follows:

18 (1) the State Treasurer or designee;

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

1 ~~(3) one member of the House of Representatives appointed by the~~
2 ~~Speaker of the House;~~

3 ~~(4) one member of the Senate appointed by the Committee on~~
4 ~~Committees of the Senate;~~

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

7 (4) the Secretary of Transportation or designee, who shall be a
8 nonvoting member.

9 (b) A quorum of the Connectivity Advisory Board shall consist of four
10 voting members. No action of the Board shall be considered valid unless the
11 action is supported by a majority vote of the members present and voting and
12 then only if at least four members vote in favor of the action. The Governor
13 shall select, from among the at-large members, a Chair and Vice Chair, who
14 shall not be members of the General Assembly or employees or officers of the
15 State at the time of the appointment.

16 (c) In making appointments of at-large and legislative members, the
17 appointing authorities Governor shall give consideration to citizens of the State
18 with knowledge of telecommunications technology, telecommunications
19 regulatory law, transportation rights-of-way and infrastructure, finance,
20 environmental permitting, and expertise regarding the delivery of
21 telecommunications services in rural, high-cost areas. However, the legislative

1 and five at-large-members may not be persons with a financial interest in or
2 owners or employees of an enterprise that provides broadband or cellular
3 service or that is seeking in-kind or financial support from the Department of
4 Public Service. The conflict of interest provision in this subsection shall not be
5 construed to disqualify a member who has ownership in a mutual fund,
6 exchange traded fund, pension plan, or similar entity that owns shares in such
7 enterprises as part of a broadly diversified portfolio. The legislative and at-
8 large members shall serve terms of two years beginning on February 1 in odd-
9 numbered years, and until their successors are appointed and qualified.
10 However, three of the five at-large members first appointed by the Governor
11 shall serve an initial term of three years. Vacancies shall be filled by the
12 respective appointing bodies for the balance of the unexpired term. A member
13 may be reappointed for up to three consecutive terms. Upon completion of a
14 term of service for any reason, including the term's expiration or a member's
15 resignation, and for one year from the date of such completion, a former Board
16 member shall not advocate before the Connectivity Board, Department of
17 Public Service, or the Public Service Board on behalf of an enterprise that
18 provides broadband or cellular service.

19 (d) Except for those members otherwise regularly employed by the State,
20 the compensation of the Board's members is that provided by 32 V.S.A.
21 § 1010(a). Legislative members are entitled to compensation for services and

1 ~~reimbursement of expenses as provided in 2 V.S.A. § 406.~~ All members of the
2 Board, including those members otherwise regularly employed by the State,
3 shall receive their actual and necessary expenses when away from home or
4 office upon their official duties.

5 (e) In performing its duties, the Connectivity Advisory Board may use the
6 legal and technical resources of the Department of Public Service. The
7 Department of Public Service shall provide the Board with administrative
8 services.

9 (f) The Connectivity Advisory Board shall:

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

14 (2) function in an advisory capacity to the Commissioner on the
15 development of State telecommunications policy and planning, including the
16 action plan required under subdivision 202e(b)(6) of this chapter and the State
17 Telecommunications Plan.

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

1 (4) annually provide the Commissioner with recommendations for the
2 apportionment of funds to the High-Cost Program and the Connectivity
3 Initiative.

4 (5) annually provide the Commissioner with recommendations on the
5 appropriate Internet access speeds for publicly funded telecommunication and
6 connectivity projects.

7 (g) The Commissioner shall make an initial determination as to whether a
8 proposal submitted under the Connectivity Initiative meets the criteria of the
9 request for proposals. The Commissioner shall then provide the Connectivity
10 Advisory Board a list of all eligible proposals and recommendations. The
11 Connectivity Advisory Board shall review the recommendations of the
12 Commissioner and may review any proposal submitted, as it deems necessary,
13 and either approve or disapprove each recommendation and may make new
14 recommendations for the Commissioner’s final consideration. The
15 Commissioner shall have final decision-making authority with respect to the
16 awarding of grants under the Connectivity Initiative. If the Commissioner
17 does not accept a recommendation of the Board, he or she shall provide the
18 Board with a written explanation for such decision.

19 (h) On September 15, 2015, and annually thereafter, the Commissioner
20 shall submit to the Connectivity Advisory Board an accounting of monies in
21 the Connectivity Fund and anticipated revenue for the next year. On or before

1 January 1 of each year, the Commissioner, after consulting with the
2 Connectivity Advisory Board, shall recommend to the relevant legislative
3 committees of jurisdiction a plan for apportioning such funds to the High-Cost
4 Program and the Connectivity Initiative.

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

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

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

1 the data are disclosed in a form that cannot identify or be associated with a
2 particular telecommunications service provider.

3 Sec. 6. CREATION OF POSITIONS; TRANSFER OF VACANT

4 POSITIONS; REEMPLOYMENT RIGHTS; TRANSITIONAL

5 PROVISIONS

6 (a) Up to three additional exempt full-time positions are created within the
7 Division for Telecommunications and Connectivity, as deemed necessary by
8 the Secretary of Administration.

9 (b) The positions created under subsection (a) of this section shall only be
10 filled to the extent there are existing vacant positions in the Executive Branch
11 available to be transferred and converted to the new positions in the Division
12 for Telecommunications and Connectivity, as determined by the Secretary of
13 Administration and the Commissioner of Human Resources, so that the total
14 number of authorized positions in the State shall not be increased by this act.

15 (c) All full-time personnel of the Vermont Telecommunications Authority
16 employed by the Authority on the day immediately preceding the effective date
17 of this act who do not obtain a position in the Division for
18 Telecommunications and Connectivity pursuant to subsection (a) of this
19 section shall be entitled to the same reemployment or recall rights available to
20 nonmanagement State employees under the existing collective bargaining

1 agreement entered into between the State and the Vermont State Employees'
2 Association.

3 (d) The Department of Public Service shall assume possession and
4 responsibility for all assets and liabilities of the Vermont Telecommunications
5 Authority (VTA).

6 (e) The VTA shall not enter into any new contracts without the approval of
7 the Commissioner of Public Service.

8 * * * Universal Service Fund * * *

9 Sec. 7. 30 V.S.A. § 7503 is amended to read:

10 § 7503. FISCAL AGENT

11 (a) A fiscal agent shall be selected to receive and distribute funds under this
12 chapter.

13 (b) The fiscal agent shall be selected by the ~~Public Service Board~~
14 Commissioner of Public Service after competitive bidding. No
15 telecommunications service provider shall be eligible to be the fiscal agent.

16 The duties of the fiscal agent shall be determined by a contract with a term not
17 greater than three years.

18 (c) In order to finance grants and other expenditures that have been
19 approved by the ~~Public Service Board~~ Commissioner of Public Service, the
20 fiscal agent may borrow money from time to time in anticipation of receipts
21 during the current fiscal year. No such note shall have a term of repayment in

1 excess of one year, but the fiscal agent may pledge its receipts in the current
2 and future years to secure repayment. Financial obligations of the fiscal agent
3 are not guaranteed by the State of Vermont.

4 (d) The fiscal agent shall be audited annually by a certified public
5 accountant in a manner determined by and under the direction of the ~~Public~~
6 ~~Service Board~~ Commissioner of Public Service.

7 (e) The financial accounts of the fiscal agent shall be available at
8 reasonable times to any telecommunications service provider in this State. The
9 ~~Public Service Board~~ Commissioner of Public Service may investigate the
10 accounts and practices of the fiscal agent and may enter orders concerning the
11 same.

12 (f) The fiscal agent acts as a fiduciary and holds funds in trust for the
13 ratepayers until the funds have been disbursed as provided pursuant to ~~sections~~
14 ~~7511 through 7515~~ section 7511 of this chapter.

15 Sec. 8. REPEAL

16 30 V.S.A. § 7515a (additional program support for Executive Branch
17 activities) is repealed.

1 Sec. 9. 30 V.S.A. § 7511 is amended to read:

2 § 7511. DISTRIBUTION GENERALLY

3 (a)(1) As directed by the ~~Public Service Board~~ Commissioner of Public
4 Service, funds collected by the fiscal agent, and interest accruing thereon, shall
5 be distributed as follows:

6 ~~(1)(A)~~ to pay costs payable to the fiscal agent under its contract with the
7 ~~Board~~ Commissioner;

8 ~~(2)(B)~~ to support the Vermont telecommunications relay service in the
9 manner provided by section 7512 of this title;

10 ~~(3)(C)~~ to support the Vermont Lifeline program in the manner provided
11 by section 7513 of this title;

12 ~~(4)(D)~~ to support Enhanced-911 services in the manner provided by
13 section 7514 of this title; and

14 ~~(5)(E)~~ to support the Connectivity Fund established in section 7516 of
15 ~~this chapter; and of this title; and~~

16 (2) For fiscal year 2016 only, any personnel or administrative costs
17 associated with the Connectivity Initiative shall come from the Connectivity
18 Fund, as determined by the Commissioner in consultation with the
19 Connectivity Board.

20 (b) If insufficient funds exist to support all of the purposes contained in
21 subsection (a) of this section, the ~~Board~~ Commissioner shall ~~conduct an~~

1 ~~expedited proceeding~~ to allocate the available funds, giving priority in the
2 order listed in subsection (a).

3 Sec. 9a. FUNDING FOR CONNECTIVITY PERSONNEL; GROSS
4 RECEIPTS TAX

5 Not later than January 15, 2016, the Commissioner shall determine whether
6 the revenues raised from the existing gross receipts tax on public service
7 companies, 30 V.S.A. § 22, is sufficient to finance the personnel and
8 administrative costs associated with the Connectivity Initiative, beginning in
9 fiscal year 2017. If the Commissioner determines the revenues are not
10 sufficient for this purpose, he or she shall recommend to the General Assembly

11 either:

12 (1) a new rate of tax applicable to one or more categories of public
13 service companies, as he or she deems necessary and appropriate; or

14 (2) a proposal to fund such personnel and administrative costs with
15 monies in the Connectivity Fund.

16 Sec. 10. 30 V.S.A. § 7516 is amended to read:

17 § 7516. CONNECTIVITY FUND

18 There is created a Connectivity Fund for the purpose of providing support
19 to the High-Cost Program established under section 7515 of this chapter and
20 the Connectivity Initiative established under section 7515b of this chapter.

21 The fiscal agent shall determine annually, on or before September 1, the

1 amount of monies available to the Connectivity Fund. Such funds shall be
2 apportioned ~~equally~~ as follows: 45 percent to the High-Cost Program and
3 55 percent to the Connectivity Initiative ~~referenced in this section~~.

4 Sec. 11. 30 V.S.A. § 7515 is amended to read:

5 § 7515. HIGH-COST PROGRAM

6 (a) The Universal Service Charge shall be used as a means of keeping basic
7 telecommunications service affordable in all parts of this State, thereby
8 maintaining universal service, and as a means of supporting access to
9 broadband service in all parts of the State.

10 (b) The Public Service Board, after review of a petition of a company
11 holding a certificate of public good to provide telecommunications service in
12 Vermont, and upon finding that the company meets all requirements for
13 designation as an “eligible telecommunications carrier” as defined by the FCC,
14 may designate the company as a Vermont-eligible telecommunications carrier
15 (VETC).

16 (c) The supported services a designated VETC must provide are voice
17 telephony services, as defined by the FCC, and broadband Internet access,
18 directly or through an affiliate. A VETC receiving support under this section
19 shall use that support for capital improvements in high cost areas, as defined in
20 subsection (f) of this section, to build broadband capable networks.

1 (d) The Board may designate multiple VETCs for a single high cost area,
2 but each designated VETC shall:

3 (1) offer supported services to customers at all locations throughout the
4 ~~service~~ high cost area or areas for which it has been designated; and

5 (2) for its voice telephone services, meet service quality standards set by
6 the Board.

7 (e) A VETC shall receive support as defined in subsection (i) of this
8 section from the fiscal agent of the Vermont Universal Service Fund for each
9 telecommunications line in service or service location, whichever is greater in
10 number, in each high cost area it services. Such support may be made in the
11 form of a net payment against the carrier's liability to the Fund. If multiple
12 VETCs are designated for a single area, then each VETC shall receive support
13 for each line it has in service.

14 (f) As used in this section, a Vermont telephone exchange is a "high cost
15 area" if the exchange is served by a rural telephone company, as defined by
16 federal law, or if the exchange is designated as a rural exchange in the
17 wholesale tariff of a regional bell operating company (RBOC), as defined by
18 the FCC, or of a successor company to an RBOC. An exchange is not a high
19 cost area if the Public Service Board finds that the supported services are
20 available to all locations throughout the exchange from at least two service
21 providers.

1 (g) Except as provided in subsection (h) of this section, a VETC shall
2 provide broadband Internet access at speeds no lower than 4 Mbps download
3 and 1 Mbps upload in each high cost area it serves within five years of
4 designation. A VETC need not provide broadband service to a location that
5 has service available from another service provider, as determined by the
6 Department of Public Service.

7 (h) The Public Service Board may modify the build out requirements of
8 subsection (d) of this section as it relates to broadband Internet access to be the
9 geographic area that could be reached using one-half of the funds to be
10 received over five years. A VETC may seek such waiver of the build out
11 requirements ~~in subsection (e)~~ within one year of designation and shall
12 demonstrate the cost of meeting broadband Internet access requirements on an
13 exchange basis and propose an alternative build out plan.

14 (i) The amount of the monthly support under this section shall be the pro
15 rata share of available funds ~~as provided in subsection (e) of this section~~ based
16 on the total number of incumbent local exchange carriers in the State and
17 reflecting each carrier's lines in service or service locations in its high-cost
18 area or areas, as determined under subsection (e) of this section. If an
19 incumbent local exchange carrier does not petition the Board for VETC
20 designation, or is found ineligible by the Board, the share of funds it otherwise

1 would have received under this section shall be used to support the
2 Connectivity Initiative established in section 7515b of this chapter.

3 (j) The Public Service Board shall adopt by rule standards and procedures
4 for ensuring projects funded under this section are not competitive overbuilds
5 of existing wired telecommunications services.

6 (k) Each VETC shall submit certification that it is meeting the
7 requirements of this section and an accounting of how it expended the funds
8 received under this section in the previous calendar year, with its annual report
9 to the Department of Public Service. For good cause shown, the Public
10 Service Board may investigate submissions required by this subsection and
11 may revoke a company's designation if it finds that the company is not
12 meeting the requirements of this subsection.

13 Sec. 12. 30 V.S.A. § 7515b is amended to read:

14 § 7515b. CONNECTIVITY INITIATIVE

15 (a) The purpose of the Connectivity Initiative is to provide each service
16 location in Vermont access to Internet service that is capable of speeds of at
17 least ~~4~~ 10 Mbps download and 1 Mbps upload, or the FCC speed requirements
18 established under Connect America Fund Phase II, whichever is higher,
19 beginning with locations not served as of December 31, 2013 according to the
20 minimum technical service characteristic objectives applicable at that time.
21 Within this category of service locations, priority shall be given first to

1 unserved and then to underserved locations. As used in this section,
2 “unserved” means a location having access to only satellite or dial-up Internet
3 service and “underserved” means a location having access to Internet service
4 with speeds that exceed satellite and dial-up speeds but are less than 4 Mbps
5 download and 1 Mbps upload. Any new services funded in whole or in part by
6 monies ~~in this Fund~~ from this Initiative shall be capable of being continuously
7 upgraded to reflect the best available, most economically feasible service
8 capabilities.

9 (b) The Department of Public Service shall publish annually a list of census
10 blocks eligible for funding based on the Department’s most recent broadband
11 mapping data. The Department annually shall solicit proposals from service
12 providers, ~~the Vermont Telecommunications Authority, and the Division for~~
13 ~~Connectivity~~ to deploy broadband to eligible census blocks. The Department
14 shall give priority to proposals that reflect the lowest cost of providing services
15 to unserved and underserved locations; however, the Department also shall
16 consider:

- 17 (1) the proposed data transfer rates and other data transmission
18 characteristics of services that would be available to consumers;
- 19 (2) the price to consumers of services;
- 20 (3) the proposed cost to consumers of any new construction, equipment
21 installation service, or facility required to obtain service;

1 (b) Unless otherwise required by federal law, the Agency shall assess,
2 collect, and deposit in the Transportation Fund a reasonable charge or payment
3 with respect to leases or licenses for access to or use of State-owned rights-of-
4 way by providers of broadband or wireless communications facilities or
5 services. ~~The Vermont Telecommunications Authority, established by 30~~
6 ~~V.S.A. chapter 91, Agency~~ may waive such charge or payment in whole or in
7 part if the provider offers to provide comparable value to the State so as to
8 meet the public good as determined by the ~~Authority~~ Agency and the
9 Department of Public Service. For the purposes of this section, the terms
10 “comparable value to the State” shall be construed broadly to further the
11 State’s interest in ubiquitous broadband and wireless service availability at
12 reasonable cost. Any waiver of charges or payments for comparable value to
13 the State granted by the ~~Authority~~ Agency may not exceed five years.
14 Thereafter, the ~~Authority~~ Agency may extend any waiver granted for an
15 additional period not to exceed five years if the ~~Authority~~ Agency makes
16 affirmative written findings demonstrating that the State has received and will
17 continue to receive value that is comparable to the value to the provider of the
18 waiver, or it may revise the terms of the waiver in order to do so. ~~The~~
19 ~~Authority, in consultation with the Agency of Transportation, shall adopt rules~~
20 ~~under 3 V.S.A. chapter 25 to implement this section. For the purpose of~~
21 ~~establishing rules to implement 30 V.S.A. chapter 91 by July 1, 2007, or as~~

1 ~~soon thereafter as possible, the authority is authorized to adopt initial rules~~
2 ~~under this section using emergency rulemaking procedures of 3 V.S.A. chapter~~
3 ~~25. Any emergency rules initially adopted may remain in effect longer than~~
4 ~~120 days, but in no event shall they remain in effect for more than six months.~~

5 * * *

6 * * * Retransmission Fees; Reporting * * *

7 **Sec. 15. 30 V.S.A. § 518 is amended to read:**

8 **§ 518. RETRANSMISSION FEES; REPORTING**

9 (a) Purpose. The purpose of this section is to provide the Attorney General
10 with information necessary to investigate certain conduct within the cable and
11 broadcast network industries to determine whether unfair methods of
12 competition ~~or unfair or deceptive acts or practices~~ are occurring in violation
13 of 9 V.S.A. chapter 63.

14 (b) Reporting. Annually, beginning on January 1, 2015, each commercial
15 broadcasting station doing business with a Vermont cable company shall report
16 to the Attorney General any fees charged for program content retransmitted on
17 the cable network under a retransmission consent agreement entered into
18 pursuant to 47 U.S.C. § 325, for the prior calendar year.

19 (c) Investigations. The Attorney General may investigate retransmission
20 fees charged by commercial broadcasting stations, pursuant to his or her
21 investigatory powers established under 9 V.S.A. chapter 63.

1 (d) Public disclosure. The information received ~~under this section~~ by the
2 Attorney General under subsection (b) of this section ~~shall be disclosed to the~~
3 ~~public at a time and in a manner determined by the Attorney General to be~~
4 ~~consistent with and permitted by the Public Records Act and relevant~~
5 ~~provisions of federal law~~ shall be kept confidential and is exempt from public
6 inspection and copying under the Public Records Act, unless otherwise ordered
7 by a court.

8 (e) Enforcement. A violation of this section constitutes ~~an unfair and~~
9 ~~deceptive act and practice in commerce~~ unfair competition under 9 V.S.A. §
10 2453.

11 (f) The Attorney General may adopt rules he or she deems necessary to
12 implement this section. The rules, as well as any finding of unfair ~~or deceptive~~
13 ~~practices~~ competition with regard to retransmission consent fees, shall not be
14 inconsistent with the rules, regulations, and decisions of the Federal
15 Communications Commission and the federal courts interpreting the
16 Communications Act of 1934, as amended.

17 * * * E-911 System; Operations; Savings * * *

18 **Sec. 16. E-911 OPERATIONS AND SAVINGS**

19 (a) The General Assembly finds as follows:

20 (1) 2014 Acts and Resolves No. 190, Sec. 24 directed the Secretary of
21 Administration to submit a report to the General Assembly proposing a plan

1 for transferring the responsibilities and powers of the Enhanced 911 Board,
2 including necessary positions, to either the Division for Connectivity, the
3 Department of Public Service, or the Department of Public Safety.

4 (2) The plan was to include budgetary recommendations, striving to
5 achieve annual operational savings of at least \$300,000.00, as well as enhanced
6 coordination and efficiency, and reduction in operational redundancies.

7 (3) On December 15, 2014, the Secretary of Administration made a
8 recommendation to the General Assembly to transfer responsibilities and
9 powers of the Enhanced 911 Board to the Department of Public Safety. In the
10 report, the Secretary estimated that such transfer could be expected to save
11 between \$210,000.00 and \$350,000.00 each year on an ongoing basis by virtue
12 of personal services savings.

13 (4) During the 2015 legislative session, a representative of the Enhanced
14 911 Board testified before the Senate Committee on Appropriations that the
15 Board's current, administrative expenses could be reduced by approximately
16 \$300,000.00.

17 (b) By July 1, 2015, the administration of the Vermont Enhanced 911
18 system shall be transferred to the Department of Public Safety, as provided in
19 Secs. 17, 18, and 19 of this act; or, if such transfer does not occur, then in
20 fiscal year 2016, not less than \$510,000.00 shall be transferred from the
21 Enhanced 911 Fund to the General Fund to offset E-911-eligible costs incurred

1 by the Department of Public Safety, and not less than one, full-time employee
2 position in the Enhanced 911 system shall be eliminated.

3 **Sec. 17. 20 V.S.A. § 1811 is amended to read:**

4 § 1811. CREATION OF DEPARTMENT

5 There is ~~hereby~~ created a ~~department of public safety~~ Department of Public
6 Safety for the purpose of consolidating certain existing police and investigating
7 agencies, to promote the detection and prevention of crime generally, ~~and~~ to
8 participate in searches for lost or missing persons, ~~and~~ to assist in case of
9 statewide or local disasters or emergencies, and to administer the statewide
10 Enhanced 911 system established under 30 V.S.A. chapter 87.

11 **Sec. 18. 20 V.S.A. § 1872 is amended to read:**

12 § 1872. DUTIES OF COMMISSIONER GENERALLY

13 The ~~commissioner shall be~~ Commissioner is the chief enforcement officer
14 of all the statutes, rules, and regulations pertaining to the law of the road and
15 the display of lights on vehicles. In addition, the ~~commissioner~~ Commissioner
16 shall supervise and direct the activities of the ~~state police~~ State Police and of
17 the Vermont ~~criminal information center~~ Crime Information Center and, as fire
18 marshal, ~~be responsible for enforcing~~ shall enforce the laws pertaining to the
19 investigation of fires, the prevention of fires, the promotion of fire safety, and
20 the delivery of fire service training. In addition, the Commissioner shall

1 administer the statewide Enhanced 911 system established under 30 V.S.A.
2 chapter 87.

3 **Sec. 19. 30 V.S.A. chapter 87 is amended to read:**

4 CHAPTER 87. ENHANCED 911; EMERGENCY SERVICES

5 § 7051. DEFINITIONS

6 As used in this chapter:

7 (1) “Automatic location identification” or “ALI” means the system
8 capability to identify automatically the geographical location of the electronic
9 device being used by the caller to summon assistance and to provide that
10 location information to an appropriate device located at any public safety
11 answering point for the purpose of sending emergency assistance.

12 (2) ALI “database” means a derivative, verified set of records ~~which~~ that
13 contain at a minimum a telephone number and location identification for each
14 unique building or publicly used facility within a defined geographic area in
15 Vermont.

16 (3) “Automatic number identification” or “ANI” means the system
17 capability to identify automatically the calling telephone number and to
18 provide a display of that number at any public safety answering point.

19 (4) “Board” means the Vermont Enhanced 911 Advisory Board
20 established under section 7053 of this ~~title~~ chapter.

1 (5) “Caller” means a person or an automated device calling on behalf of
2 a person.

3 (6) “Commissioner” means the Commissioner of Public Safety.

4 (7) “Director” means the Director for statewide Enhanced 911.

5 (7)(8) “Emergency call system” or “Enhanced 911 system” means a
6 system consisting of devices with the capability to determine the location and
7 identity of a caller that initiates communication for the purpose of summoning
8 assistance in the case of an emergency. In most cases summoning assistance
9 will occur when a caller dials the digits 9-1-1 on a telephone, mobile phone, or
10 other IP-enabled service, or by a communication technology designed for the
11 purpose of summoning assistance in the case of an emergency.

12 (8)(9) “Emergency services” means fire, police, medical, and other
13 services of an emergency nature as identified by the ~~Board~~ Commissioner.

14 (9)(10) “IP-enabled service” means a service, device, or application that
15 makes use of Internet protocol, or IP, and ~~which~~ that is capable of entering the
16 digits 9-1-1 or otherwise contacting the ~~emergency~~ Enhanced 911 system.
17 IP-enabled service includes voiceover IP and other services, devices, or
18 applications provided through or using wire line, cable, wireless, ~~or~~ satellite, or
19 other facilities.

20 (10)(11) “Municipality” means any city, town, incorporated village,
21 unorganized town, gore, grant, or other political subdivision of the State.

1 ~~(11)~~(12) “Other methods of locating caller” means those commercially
2 available technologies designed to provide the location information of callers
3 when a call is initiated to access emergency 911 services regardless of the type
4 of device ~~that is~~ used.

5 ~~(12)~~(13) “Public safety answering point” means a facility with the
6 capability to receive emergency calls, operated on a 24-hour basis, assigned the
7 responsibility of receiving 911 calls and dispatching, transferring, or relaying
8 emergency 911 calls to other public safety agencies or private safety agencies.

9 ~~(13)~~(14) “Selective routing” means a telecommunications switching
10 system that enables all 911 calls originating from within a defined
11 geographical region to be answered at a ~~pre-designated~~ predesignated public
12 service answering point.

13 § 7052. VERMONT ENHANCED 911 ADVISORY BOARD

14 (a) The Vermont Enhanced 911 Advisory Board is established to ~~develop,~~
15 ~~implement and supervise the operation~~ make recommendations to the
16 Commissioner regarding the development and implementation of the statewide
17 Enhanced 911 system.

18 (b) The Board shall consist of nine members: one county law enforcement
19 officer elected by the membership of the Vermont ~~State sheriff's association~~
20 Sheriff's Association; one municipal law enforcement officer elected by the
21 ~~chiefs of police association of Vermont~~ Association of Chiefs of Police; one

1 official of a municipality; a firefighter; an emergency medical services
2 provider; a Department of Public Safety representative; and three members of
3 the public. Board members shall be appointed by the Governor to three-year
4 terms, except that the Governor shall stagger initial appointments so that the
5 terms of no more than four members expire during a calendar year. In
6 appointing Board members, the Governor shall give due consideration to the
7 different geographical regions of the State; and the need for balance between
8 rural and urban areas. Board members shall serve at the pleasure of the
9 Governor.

10 (c) Members who are not State employees or not otherwise compensated in
11 the course of their employment shall receive per diem compensation and
12 expense reimbursement for meetings in accordance with the provisions of 32
13 V.S.A. § 1010. Members who receive per diem shall receive compensation for
14 no more than 12 meetings per year.

15 (d) The Governor shall annually appoint a member to serve as Board chair
16 and a member to serve as Board vice chair. The Board shall hold at least four
17 regular meetings a year. Meetings of the Board may be held at any time or
18 place within Vermont upon call of the Chair or a majority of the members,
19 after reasonable notice to the other members and shall be held at such times
20 and places as in the judgment of the Board will best serve the convenience of
21 all parties in interest. The Board shall adopt rules and procedures with respect

1 to the conduct of its meetings and other affairs. Membership on the Board
2 does not constitute the holding of an office for any purpose, and members of
3 the Board shall not be required to take and file oaths of office before serving
4 on the Board. A member of the Board shall not be disqualified from holding
5 any public office or employment, and shall not forfeit any office or
6 employment, by reason of ~~their~~ his or her appointment to the ~~board~~ Board,
7 notwithstanding any statute, ordinance, or charter to the contrary.

8 (e) The Board shall ~~appoint~~ recommend, subject to the approval of the
9 ~~Governor~~ Commissioner, an Executive Director who shall hold office at the
10 pleasure of the ~~Board~~ Commissioner. He or she shall perform such duties as
11 may be assigned by the ~~Board~~ Commissioner. The Executive Director is
12 entitled to compensation, as established by law, and reimbursement for the
13 expenses within the amounts available by appropriation. ~~The Executive~~
14 ~~Director may, with the approval of the Board, hire employees, agents, and~~
15 ~~consultants and prescribe their duties.~~

16 § 7053. ~~BOARD~~ COMMISSIONER; RESPONSIBILITIES AND POWERS

17 (a) The ~~Board shall be the single governmental agency~~ Commissioner is
18 responsible for statewide ~~enhanced~~ Enhanced 911. To the extent feasible, the
19 ~~Board~~ Commissioner shall consult with the ~~Agency~~ Secretary of Human
20 Services, the ~~Department of Public Safety, the Department~~ Commissioner of
21 Public Service, and local community service providers on the development of

1 policies, system design, standards, and procedures. The ~~Board~~ Commissioner
2 shall develop designs, standards, and procedures and shall adopt rules on the
3 following:

4 (1) the technical and operational standards for public safety
5 answering points;

6 (2) the system ~~data base~~ database, standards and procedures for
7 developing and maintaining the ~~data base~~ database. The system ~~data base~~
8 database shall be the property of the ~~Board~~ Department of the Public Safety;

9 (3) statewide, locatable means of identifying customer location, such as
10 addressing, geo-coding, or other methods of locating the caller; and

11 (4) standards and procedures to ensure system and ~~data base~~ database
12 security.

13 ~~(b) (d)~~ [Repealed.]

14 ~~(e)~~(b) The ~~Board~~ Commissioner is authorized to:

15 (1) ~~to~~ make or cause to be made studies of any aspect of the ~~enhanced~~
16 Enhanced 911 system, including service, operations, training, ~~data base~~
17 database development, and public awareness;

18 (2) ~~to~~ accept and use in the name of the ~~state~~ State, subject to review and
19 approval by the ~~joint fiscal committee~~ Joint Fiscal Committee, any and all
20 donations or grants, both real and personal, from any governmental unit or
21 public agency or from any institution, person, firm, or corporation, consistent

1 with the rules established by the Board and the purpose or conditions of the
2 donation or grant; and

3 (3) ~~to~~ exercise all powers and conduct such activities as are necessary in
4 carrying out the ~~Board's~~ Commissioner's responsibilities in fulfilling the
5 purposes of this chapter.

6 ~~(f)~~(c) The ~~Board~~ Commissioner shall adopt such rules as are necessary to
7 carry out the purposes of this chapter, including, where appropriate, imposing
8 reasonable fines or sanctions against persons that do not adhere to applicable
9 ~~board~~ rules.

10 ~~(g), (h) [Repealed.]~~

11 § 7054. FUNDING

12 (a) The Enhanced 911 Fund is created as a special fund subject to the
13 provisions of 32 V.S.A. chapter 7, subchapter 5. Balances in the Fund on
14 June 30 of each year shall carry forward and shall not revert to the
15 General Fund.

16 (b) The General Assembly shall annually review and approve an amount to
17 be transferred by the universal service fiscal agent to the Enhanced 911 Fund
18 and shall appropriate some or all of that amount for expenditures related to
19 providing Enhanced 911 services.

20 (c) Into the Enhanced 911 Fund shall be deposited monies transferred from
21 the universal service fiscal agent, any State or federal funds appropriated to the

1 Fund by the General Assembly, any taxes specifically required by law to be
2 deposited into the Fund, and any grants or gifts received by the State for the
3 benefit of the Enhanced 911 system.

4 (d) Disbursements from the Enhanced 911 Fund shall be made by the State
5 Treasurer on warrants drawn by the ~~Director~~ Commissioner solely for the
6 purposes specified in this chapter. The ~~Director~~ Commissioner may issue such
7 warrants pursuant to contracts or grants.

8 (e) Disbursements may be made for:

9 (1) nonrecurring costs, including establishing public safety answering
10 points, purchasing network equipment and software, developing ~~data bases~~
11 databases, and providing for initial training and public education;

12 (2) recurring costs, including network access fees and other telephone
13 charges, software, equipment, ~~data base~~ database management and
14 improvement, public education, ongoing training and equipment maintenance;

15 (3) expenses of the Board and the Department of Public ~~Service~~ Safety
16 incurred under this chapter;

17 (4) costs solely attributable to statewide public safety answering point
18 operations; and

19 (5) costs attributable to demonstration projects designed to enhance the
20 delivery of ~~emergency~~ Enhanced 911 and other emergency services.

- 1 (f) Disbursements may not be made for:
- 2 (1) personnel costs for emergency dispatch answering points;
- 3 (2) construction, purchase, renovation, or furnishings for buildings at
- 4 emergency dispatch points;
- 5 (3) two-way radios; and
- 6 (4) vehicles and associated equipment.

7 § 7055. TELECOMMUNICATIONS COMPANY COORDINATION

8 (a) Every telecommunications company under the jurisdiction of the Public

9 Service Board offering access to the public network shall make available, in

10 accordance with rules adopted by the Public Service Board, the universal

11 emergency telephone number 911 for use by the public in seeking assistance

12 from fire, police, medical, and other emergency service providers through a

13 public safety answering point.

14 (b) Every local exchange telecommunications provider shall provide the

15 ANI and any other information required by rules adopted under section 7053

16 of this ~~title~~ chapter to the ~~Board~~ Commissioner, or to any administrator of the

17 Enhanced 911 database, for purposes of maintaining the Enhanced 911

18 database. Each such provider ~~shall be~~ is responsible for updating the

19 information at a frequency specified by such rules. All persons receiving

20 confidential information under this section, as defined by the Public Service

21 Board, shall use it solely for the purposes of providing ~~emergency~~ Enhanced

1 911 services, and shall not disclose such confidential information for any
2 other purpose.

3 (c) Each local exchange telecommunications company, cellular company,
4 and mobile or personal communications service company within the State shall
5 designate a person to coordinate with and provide all relevant information to
6 the ~~E-911 Board~~ Commissioner and the Public Service Board ~~in~~ for carrying
7 out the purposes of the chapter.

8 (d) Wire line and nonwire cellular carriers certificated to provide service in
9 the ~~state~~ State shall provide ANI signaling ~~which~~ that identifies geographical
10 location as well as cell site address for cellular 911 calls. Personal
11 communications networks and any future mobile or personal communications
12 systems ~~shall also be~~ are also required to identify the location of the caller.

13 The telephone company shall provide ANI signaling ~~which~~ that identifies the
14 name of the carrier and identify the type of service as cellular, mobile, or
15 personal communications as part of the ALI along with a screen message that
16 advises the call answerer to verify the location of the reported emergency.

17 Telecommunication providers of mobile wireless, IP-enabled, and other
18 communication services ~~which~~ that have systems with the capability to send
19 data related to the location of the caller with the call or transmission instead of
20 relying on location data otherwise contained in the ALI database shall provide
21 this data with calls or transmissions for the sole purpose of enabling the

1 ~~emergency~~ Enhanced 911 system to locate an individual seeking emergency
2 services. Location data shall be provided in accordance with relevant national
3 standards for next generation ~~9-1-1~~ 911 technology.

4 (e) Each local exchange telecommunications provider in the State shall file
5 with the Public Service Board tariffs for each service element necessary for the
6 provision of ~~enhanced~~ Enhanced 911 services. The Public Service Board shall
7 review each company's proposed tariff, and shall ensure that tariffs for each
8 necessary basic service element are effective within six months of filing. The
9 ~~Department~~ Commissioner of Public Service, by rule or emergency rule, may
10 establish the basic service elements that each company must provide for in
11 tariffs. Such tariffs must be filed with the Public Service Board within 60 days
12 after the basic service elements are established by the ~~Department~~
13 Commissioner of Public Service.

14 § 7056. MUNICIPAL COOPERATION; ENHANCED ANI/ALI

15 CAPABILITY

16 (a) Each municipality, by its legislative body, may participate in the
17 Enhanced 911 system. 3 Municipalities choosing to participate shall identify
18 all building locations and other public and private locations frequented by the
19 public and shall cooperate in the development and maintenance of the
20 necessary databases. The ~~Board~~ Commissioner shall work with municipalities
21 to identify nonmonetary incentives designed to streamline and reduce the

1 administrative burdens imposed by this requirement. Any municipality that
2 changes its system for addresses shall ensure that the modified address system
3 is consistent with the standards established by the ~~Board~~ Commissioner.

4 (b) After the effective date of this chapter, any municipality that changes its
5 system for addresses shall ensure that the modified address system is consistent
6 with the standards established by the ~~Board~~ Commissioner.

7 ~~(c)-(e) [Repealed.]~~

8 § 7057. PRIVATELY OWNED TELEPHONE SYSTEMS

9 Any privately owned telephone system shall provide to those end users the
10 same level of 911 service that other end users receive and shall provide ANI
11 signaling, station identification data, and updates to Enhanced 911 databases
12 under rules adopted by the ~~Board~~ Commissioner. The ~~Board~~ Commissioner
13 may waive the provisions of this section for any privately owned telephone
14 system, provided that in the judgment of the ~~Board~~ Commissioner, the owner
15 of the system is actively engaged in becoming compliant with this section, is
16 likely to comply with this section in a reasonable amount of time, and will do
17 so in accordance with standards and procedures adopted ~~by the Board~~ by rule
18 by the Commissioner.

19 § 7058. PAY TELEPHONES

20 Each provider or other owner or lessee of a pay station telephone shall
21 permit a caller to dial 911 without first inserting a coin or paying any other

1 charge. The provider or other owner or lessee shall prominently display on
2 each notice advising callers to dial 911 in an emergency and that deposit of a
3 coin is not required.

4 § 7059. CONFIDENTIALITY OF SYSTEM INFORMATION

5 (a)(1) A person shall not access, use, or disclose to any other person any
6 individually identifiable information contained in the system database created
7 ~~under subdivision 7053(a)(4) of this title~~ subsection 7053(a) of this chapter,
8 including any customer or user ALI or ANI information, except in accordance
9 with rules adopted by the ~~Board~~ Commissioner ~~and~~ for the purpose of:

10 (A) responding to emergency calls;

11 (B) system maintenance and quality control under the direction of the
12 Director;

13 (C) investigation, by law enforcement personnel, of false or
14 intentionally misleading reports of incidents requiring emergency services;

15 (D) assisting in the implementation of a statewide emergency
16 notification system;

17 (E) provision of emergency dispatch services by public safety
18 answering points in other states that are under contract with local law
19 enforcement and emergency response organizations; or

1 (F) coordinating with ~~state~~ State and local service providers for the
2 provision of emergency dispatch services that serve individuals with a
3 disability, elders, and other populations with special needs.

4 (2) ~~No person shall~~ A person shall not use customer ALI or ANI
5 information to create special 911 databases for any private purpose or any
6 public purpose unauthorized by this chapter.

7 (b) Notwithstanding the provisions of subsection (a) of this section to the
8 contrary, customer ALI or ANI information obtained in the course of
9 responding to an emergency call may be included in an incident report
10 prepared by emergency response personnel, in accordance with rules adopted
11 by the ~~Board~~ Commissioner.

12 (c) Information relating to customer name, address, and any other specific
13 customer information collected, organized, acquired, or held by the ~~board~~
14 Department of Public Safety, the entity operating a public safety answering
15 point or administering the Enhanced 911 database, or emergency service
16 provider is not public information and is exempt from ~~disclosure under 1~~
17 ~~V.S.A. chapter 5, subchapter 3~~ public inspection and copying under the Public
18 Records Act.

19 (d) If a municipality has adopted conventional street addressing for
20 Enhanced 911 addressing purposes, the municipality shall ensure that an
21 individual who so requests will not have his or her street address and name

1 linked in a municipal public record, but the individual shall be required to
2 provide a mailing address. The request required by this subsection shall be in
3 writing and shall be filed with the municipal clerk. Requests under this
4 subsection shall be confidential and exempt from public inspection and
5 copying under the Public Records Act. A form shall be prepared by the ~~Board~~
6 Commissioner and made generally available to the public by which the
7 confidentiality option established by this subsection may be exercised.

8 (e) Notwithstanding any provision of law to the contrary, no person acting
9 on behalf of the State of Vermont or any political subdivision of the ~~state~~ State
10 shall require an individual to disclose his or her Enhanced 911 address,
11 provided that the individual furnishes his or her alternative mailing address.

12 § 7060. LIMITATION OF LIABILITY

13 ~~No person shall~~ A person shall not be liable in any suit for civil damages
14 ~~who~~ if he or she in good faith receives, develops, collects, or processes
15 information for the Enhanced 911 database or develops, designs, adopts,
16 establishes, installs, participates in, implements, maintains, or provides access
17 to telephone, mobile, or IP-enabled service for the purpose of helping persons
18 obtain emergency assistance in accordance with this chapter unless such action
19 constitutes gross negligence or an intentional tort. In addition, no provider of
20 telephone, mobile, or other IP-enabled service or a provider's respective
21 employees, directors, officers, assigns, affiliates, or agents shall be liable for

1 civil damages in connection with the release of customer information to any
2 governmental entity, including any public safety answering point, as required
3 under this chapter.

4 **Proposed Amendment to H.117 (Secs. 20 – 21, only)**

5 *May 6, 2015 – 12:12 PM*

6
7 * * * Communications Union Districts * * *

8 Sec. 20. 30 V.S.A. chapter 82 is added to read:

9 CHAPTER 82. COMMUNICATIONS UNION DISTRICT

10 § 3051. FORMATION

11 (a) Two or more towns and cities may elect to form a communications
12 union district for the delivery of communications services and the operation of
13 a communications plant, which district shall be a body politic and corporate.

14 (b) A town or city electing to form a district under this chapter shall submit
15 to the eligible voters of such municipality a proposition in substantially the
16 following form: “Shall the Town of _____ enter into a
17 communications union district to be known as _____, under the
18 provisions of Chapter 82 of Title 30, Vermont Statutes Annotated?” at an
19 annual or special meeting of such town or city.

20 (c) Additional towns or cities may be admitted to the district in the manner
21 provided in section 3082 of this chapter.

1 (d) As used in this chapter:

2 (1) “Communications plant” means any and all parts of any
3 communications system owned by the district, whether using wires, cables,
4 fiber optics, wireless, other technologies, or a combination thereof, and used
5 for the purpose of transporting or storing information, in whatever forms,
6 directions, and media, together with any improvements thereto hereafter
7 constructed or acquired, and all other facilities, equipment, and appurtenances
8 necessary or appropriate to such system. However, the term “communications
9 plant” and any regulatory implications or any restrictions under this chapter
10 regarding a “communications plant” shall not apply to facilities or portions of
11 any communications facilities intended for use by, and solely used by, a
12 district member and its own officers and employees in the operation of
13 municipal departments or systems of which such communications are merely
14 an ancillary component.

15 (2) “Communications union district” or “district” means a
16 communications union district formed under this chapter.

17 (3) “District member” or “member municipality” means a town or city
18 that elects to form a communications union district under this chapter.

19 (4) “Governing board” or “board” means the governing board of the
20 communications union district as established under this chapter.

1 § 3052. DISTRICT COMPOSITION

2 A district formed under this chapter shall be composed of and include all of
3 the lands and residents within a member municipality, and any other town or
4 city subsequently admitted to the district as provided in this chapter except for
5 those towns and cities that withdraw as provided in this chapter. Registered
6 voters in each member municipality are eligible to vote in all district meetings,
7 but only district member representatives are eligible to vote in meetings of the
8 district’s governing board.

9 § 3053. CREATION; DURATION; NONCONTESTABILITY

10 (a) Following the organizational meeting called for in section 3060 of this
11 chapter, the district’s governing board shall cause to be filed with the Office of
12 the Secretary of State a certificate attesting to the vote conducted under
13 subsection 3051(b) of this chapter.

14 (b) A district formed under this chapter shall continue as a body politic and
15 corporate unless and until dissolved according to the procedures set forth in
16 this chapter.

17 (c) An action shall not be brought directly or indirectly challenging,
18 questioning, or in any manner contesting the legality of the formation, or the
19 existence as a body corporate and politic of any communications union district
20 created under this chapter after six months from the date of the recording in the
21 Office of the Secretary of State of the certificate required by subsection (a) of

1 this section. An action shall not be brought directly or indirectly challenging,
2 questioning, or in any manner contesting the legality or validity of any bonds
3 issued to defray costs of communications plant improvements approved by the
4 board, after six months from the date upon which the board voted affirmatively
5 to issue such bonds. This section shall be liberally construed to effect the
6 legislative purpose to validate and make certain the legal existence of all
7 communications union districts in this State and the validity of bonds issued or
8 authorized for communications plant improvements, and to bar every remedy
9 therefor notwithstanding any defects or irregularities, jurisdictional or
10 otherwise, after expiration of the six-month period. The provisions of this
11 subsection shall also pertain to financial contracts directly related to the
12 district's bonding authority.

13 (d) To the extent a district constructs communications infrastructure with
14 the intent of providing communications services, the district shall ensure that
15 any and all losses from these services, or in the event these services are
16 abandoned or curtailed, any and all costs associated with the investment in
17 communications infrastructure, are not borne by the taxpayers of district
18 members.

1 § 3054. DISTRICT POWERS

2 (a) In addition to the powers enumerated in 24 V.S.A. § 4866, and, subject
3 to the limitations and restrictions set forth in section 3056 of this chapter, a
4 district created under this chapter shall have the power to:

5 (1) operate, cause to be operated, or contract for the construction,
6 ownership, management, financing, and operation of a communications plant
7 for the delivery of communications services, as provided in 24 V.S.A.
8 chapter 54, and all enactments supplementary and amendatory thereto;

9 (2) purchase, sell, lease, own, acquire, convey, mortgage, improve, and
10 use real and personal property in connection with its purpose;

11 (3) hire and fix the compensation and terms of employment of
12 employees;

13 (4) sue and be sued;

14 (5) enter into contracts for any term or duration;

15 (6) contract with architects, engineers, financial and legal consultants,
16 and others for professional services;

17 (7) contract with individuals, corporations, associations, authorities, and
18 agencies for services and property, including the assumption of the liabilities
19 and assets thereof;

20 (8) provide communications services for its members, the inhabitants
21 thereof, and the businesses therein, and for such others as its facilities and

1 obligations may allow, and further provided such service is not extended to
2 locations in a municipality that is not contiguous with the town limits of a
3 member district or that has access to broadband service from another provider;

4 (9) contract with the State of Vermont, the United States of America, or
5 any subdivision or agency thereof for services, assistance, and joint ventures;

6 (10) contract with any municipality for the services of any officers or
7 employees of that municipality useful to it;

8 (11) promote cooperative arrangements and coordinated action among
9 its members and other public and private entities;

10 (12) make recommendations for review and action to its members and
11 other public agencies which perform functions within the region in which its
12 members are located;

13 (13) exercise any other powers which are necessary or desirable for
14 dealing with communications matters of mutual concern and that are exercised
15 or are capable of exercise by any of its members;

16 (14) enter into financing agreements as provided by 24 V.S.A. § 1789
17 and chapter 53, subchapter 2, or other provisions of law authorizing the pledge
18 of net revenue, or alternative means of financing capital improvements and
19 operations;

20 (15) establish a budget to provide for the funding thereof out of general
21 revenue of the district;

1 (16) appropriate and expend monies;

2 (17) establish sinking and reserve funds for retiring and securing its
3 obligations;

4 (18) establish capital reserve funds and make appropriations thereto for
5 communications plant improvements and the financing thereof;

6 (19) enact and enforce any and all necessary or desirable bylaws for the
7 orderly conduct of its affairs for carrying out its communications purpose and
8 for protection of its communications property;

9 (20) solicit, accept, and administer gifts, grants, and bequests in trust or
10 otherwise for its purpose;

11 (21) exercise all powers incident to a public corporation;

12 (22) adopt a name under which it shall be known and shall conduct
13 business; and

14 (23) establish an effective date of its creation.

15 (b) Before a district may sell any service using a communications plant
16 subject to Public Service Board jurisdiction and for which a certificate of
17 public good is required under chapter 5 or 13 of this title, it shall obtain a
18 certificate of public good for such service. Each such certificate of public
19 good shall be nonexclusive and shall not contain terms or conditions more
20 favorable than those imposed on existing certificate holders authorized to serve
21 the municipality.

1 § 3055. COMMUNICATIONS PLANT; SITES

2 Each member shall make available for lease to the district one or more sites
3 for a communications plant or components thereof within such member
4 municipality.

5 § 3056. LIMITATIONS; TAXES; INDEBTEDNESS

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

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

13 (c) Notwithstanding any grant of authority in this chapter to the contrary,
14 every issue of a district's notes and bonds shall be general obligations of the
15 district payable only out of any revenues or monies of the district.

16 § 3057. BOARD AUTHORITY

17 The legislative power and authority of a district and the administration and
18 the general supervision of all fiscal, prudential, and governmental affairs
19 thereof shall be vested in a legislative body known as the governing board,
20 except as specifically provided otherwise in this chapter.

1 § 3058. BOARD COMPOSITION

2 The district governing board shall be composed of one representative from
3 each member and one or more alternates to serve in the absence of the
4 designated representative.

5 § 3059. APPOINTMENT

6 Annually on or before the last Monday in April commencing in the year
7 following the effective date of the district’s creation, the legislative body of
8 each member shall appoint a representative and one or more alternates to the
9 governing board for one-year terms. Appointments of representatives and
10 alternates shall be in writing, signed by the chair of the legislative body of the
11 appointing member, and presented to the clerk of the district. The legislative
12 body of a member, by majority vote, may replace its appointed representative
13 or alternate at any time and shall promptly notify the district clerk of such
14 replacement.

15 § 3060. ORGANIZATIONAL MEETING

16 Annually, on the second Tuesday in May following the appointments
17 contemplated in section 3059 of this chapter, the board shall hold its
18 organizational meeting. At such meeting, the board shall elect from among its
19 appointed representatives a chair and a vice chair, each of whom shall hold
20 office for one year and until his or her successor is duly elected.

1 § 3061. QUORUM

2 For the purpose of transacting business, the presence of delegates or
3 alternates representing more than 50 percent of district members shall
4 constitute a quorum. However, a smaller number may adjourn to another date.
5 Any action adopted by a majority of the votes cast at a meeting of the board at
6 which a quorum is present shall be the action of the board, except as otherwise
7 provided in this chapter.

8 § 3062. VOTING

9 Each district member's delegation shall be entitled to cast one vote.

10 § 3063. TERM

11 Unless replaced in the manner provided in section 3059 of this chapter, a
12 representative on the governing board shall hold office until his or her
13 successor is duly appointed. Any representative or alternate may be
14 reappointed to successive terms without limit.

15 § 3064. VACANCY

16 Any vacancy on the board shall be filled within 30 days after such vacancy
17 occurs by appointment by the authority which appointed the representative or
18 alternate whose position has become vacant. An appointee to a vacancy shall
19 serve until the expiration of the term of the representative or alternate to whose
20 position the appointment was made and may thereafter be reappointed.

1 § 3065. RULES OF PROCEDURE

2 Except as otherwise provided by law, or as may be agreed upon by the
3 board, Robert’s Rules of Order shall govern at all meetings.

4 § 3066. COMPENSATION OF REPRESENTATIVES

5 Each district member may reimburse its representative to the governing
6 board for expenses as it determines reasonable, except as provided in
7 section 3072 of this chapter with respect to district officers.

8 § 3067. OFFICERS; BOND

9 (a) The officers of the district shall be the chair and the vice chair of the
10 board, the clerk of the district, and the treasurer of the district. Prior to
11 assuming their offices, officers may be required to post bond in such amounts
12 as shall be determined by resolution of the board. The cost of such bond shall
13 be borne by the district.

14 (b) The chair shall preside at all meetings of the board and shall make and
15 sign all contracts on behalf of the district upon approval by the board. The
16 chair shall perform all duties incident to the position and office as required by
17 the general laws of the State.

18 (c) During the absence of or inability of the chair to render or perform his
19 or her duties or exercise his or her powers, the same shall be performed and
20 exercised by the vice chair and when so acting, the vice chair shall have all the

1 powers and be subject to all the responsibilities hereby given to or imposed
2 upon the chair.

3 (d) During the absence or inability of the vice chair to render or perform his
4 or her duties or exercise his or her powers, the board shall elect from among its
5 membership an acting vice chair who shall have the powers and be subject to
6 all the responsibilities hereby given or imposed upon the vice chair.

7 (e) Upon the death, disability, resignation, or removal of the chair or vice
8 chair, the board shall forthwith elect a successor to such vacant office until the
9 next annual meeting.

10 § 3068. CLERK

11 The clerk of the district shall be appointed by the board, and shall serve at
12 its pleasure. The clerk is not required to be a member of the governing board.
13 The clerk shall have the exclusive charge and custody of the records of the
14 district and the seal of the district. The clerk shall record all votes and
15 proceedings of the district, including district and board meetings, and shall
16 prepare and cause to be posted and published all warnings of meetings of such
17 meetings. Following approval by the board, the clerk shall cause the annual
18 report to be distributed to the legislative bodies of the district members. The
19 clerk shall prepare and distribute any other reports required by State law and
20 resolutions or regulations of the board. The clerk shall perform all duties and
21 functions incident to the office of secretary or clerk of a body corporate.

1 § 3069. TREASURER

2 The treasurer of the district shall be appointed by the board, and shall serve
3 at its pleasure. The treasurer shall not be a member of the governing board.
4 The treasurer shall have the exclusive charge and custody of the funds of the
5 district and shall be the disbursing officer of the district. When authorized by
6 the board, the treasurer may sign, make, or endorse in the name of the district
7 all checks and orders for the payment of money and pay out and disburse the
8 same and receipt therefor. The treasurer shall keep a record of every
9 obligation issued and contract entered into by the district and of every payment
10 thereon. The treasurer shall keep correct books of account of all the business
11 and transactions of the district and such other books and accounts as the board
12 may require. The treasurer shall render a statement of the condition of the
13 finances of the district at each regular meeting of the board and at such other
14 times as shall be required of the treasurer. The treasurer shall prepare the
15 annual financial statement and the budget of the district for distribution, upon
16 approval of the board, to the legislative bodies of district members. The
17 treasurer shall do and perform all of the duties appertaining to the office of
18 treasurer of a body politic and corporate. Upon removal or the treasurer's
19 termination from office by virtue of removal or resignation, the treasurer shall
20 immediately pay over to the successor all of the funds belonging to the district
21 and at the same time deliver to the successor all official books and papers.

1 § 3070. AUDIT

2 Once the district becomes operational, the board shall cause an audit of the
3 financial condition of the district to be performed annually by an independent
4 professional accounting firm.

5 § 3071. COMMITTEES

6 The board has authority to establish one or more committees and grant and
7 delegate to them such powers as it deems necessary. Members of an executive
8 committee shall serve staggered terms and shall be board members.

9 Membership on other committees established by the board is not restricted to
10 board members.

11 § 3072. COMPENSATION OF OFFICERS

12 Officers of the district shall be paid from district funds such compensation
13 or reimbursement of expenses, or both, as determined by the board.

14 § 3073. RECALL OF OFFICERS

15 An officer may be removed by a two-thirds' vote of the board whenever, in
16 its judgment, the best interest of the district shall be served.

17 § 3074. FISCAL YEAR

18 The fiscal year of the district shall commence on January 1 and end on
19 December 31 of each year.

1 § 3075. BUDGET

2 (a) Annually, not later than September 15, the board shall approve and
3 cause to be distributed to the legislative body of each district member for
4 review and comment an annual report of its activities, together with a financial
5 statement, a proposed district budget for the next fiscal year, and a forecast
6 presenting anticipated year-end results. The proposed budget shall include
7 reasonably detailed estimates of:

8 (1) deficits and surpluses from prior fiscal years;

9 (2) anticipated expenditures for the administration of the district;

10 (3) anticipated expenditures for the operation and maintenance of any
11 district communications plant;

12 (4) payments due on obligations, long-term contracts, leases, and
13 financing agreements;

14 (5) payments due to any sinking funds for the retirement of district
15 obligations;

16 (6) payments due to any capital or financing reserve funds;

17 (7) anticipated revenues from all sources; and

18 (8) such other estimates as the board deems necessary to accomplish its
19 purpose.

20 (b) Coincident with a regular meeting thereof, the board shall hold a public
21 hearing not later than November 1 of each year to receive comments from the

1 legislative bodies of district members and hear all other interested persons
2 regarding the proposed budget. Notice of such hearing shall be given to the
3 legislative bodies of district members at least 30 days prior to such hearing.
4 The board shall give consideration to all comments received and make such
5 changes to the proposed budget as it deems advisable.

6 (c) Annually, not later than December 1, the board shall adopt the budget
7 and appropriate the sums it deems necessary to meet its obligations and operate
8 and carry out the district’s functions for the next ensuing fiscal year.

9 (d) Actions or resolutions of the board for the annual appropriations of any
10 year shall not cease to be operative at the end of the fiscal year for which they
11 were adopted. Appropriations made by the board for the various estimates of
12 the budget shall be expended only for such estimates, but by majority vote of
13 the board the budget may be amended from time to time to transfer funds
14 between or among such estimates. Any balance left or unencumbered in any
15 such budget estimate, or the amount of any deficit at the end of the fiscal year,
16 shall be included in and paid out of the operating budget and appropriations in
17 the next fiscal year. All such budget amendments shall be reported by the
18 district treasurer to the legislative bodies of each district member within
19 14 days of the end of the fiscal year.

1 (e) Financial statements and audit results shall be delivered to the
2 legislative bodies of each district member within 10 days of delivery to the
3 board.

4 § 3076. INDEBTEDNESS

5 The board may borrow money through the issuance of notes of the district
6 for the purpose of paying current expenses of the district. Such notes shall
7 mature within one year, and may be refunded in the manner provided by law,
8 and shall be payable solely from the district’s operating revenues. The
9 governing board may borrow money in anticipation of the receipt of
10 grants-in-aid from any source and any revenues. Such notes shall mature
11 within one year, but may be renewed as provided by general law.

12 § 3077. PLEDGE OF REVENUES

13 (a) When the board, at a regular or special meeting called for such purpose,
14 determines by resolution passed by a vote of a majority of members present
15 and voting that the public interest or necessity demands communications plant
16 improvements, or a long-term contract, and that the cost of the same will be
17 too great to be paid out of the ordinary annual income and revenue of the
18 district, the board may pledge communications plant net revenues and enter
19 into long-term contracts to provide for such improvements. A “long-term
20 contract” means an agreement in which the district incurs direct or conditional
21 obligations for which the costs are too great to be paid out of the ordinary

1 annual income and revenues of the district, in the judgment of the board. It
2 includes an agreement authorized under 24 V.S.A. § 1789, wherein
3 performance by the district is conditioned upon periodic appropriations. The
4 term “communications plant improvements” includes improvements that may
5 be used for the benefit of the public, whether or not publicly owned or
6 operated.

7 (b) The pledge of communications plant net revenues, and other obligations
8 allowed by law, may be authorized for any purpose permitted by this chapter,
9 24 V.S.A. chapter 53, subchapter 2, and chapter 54, or any other applicable
10 statutes. A communications plant is declared to be a project within the
11 meaning of 24 V.S.A. § 1821(4).

12 § 3078. SINKING AND RESERVE FUNDS

13 (a) The board may establish and provide for sinking and reserve funds,
14 however denominated, for the retirement and security of pledges of
15 communications plant net revenue, or for long-term contracts. When so
16 established, such funds shall be kept intact and separate from other monies at
17 the disposal of the district, and shall be accounted for as a pledged asset for the
18 purpose of retiring or securing such obligations or contracts. The cost of
19 payments to any sinking or reserve fund shall be included in the annual budget
20 of the district.

1 (b) The board shall establish and provide for a capital reserve fund to pay
2 for communications plant improvements, replacement of worn out buildings
3 and equipment, and planned and unplanned major repairs in furtherance of the
4 purpose for which the district was created. Any such capital reserve fund shall
5 be kept in a separate account and invested as are other public funds and shall
6 be expended for such purposes for which established. The cost of payments to
7 any capital reserve fund shall be included in the annual budget of the district.

8 § 3079. SERVICE FEES

9 The board may from time to time establish and adjust service, subscription,
10 access, and utility fees for the purpose of generating revenues from the
11 operation of its communications plant.

12 § 3080. SPECIAL MEETINGS

13 (a) The board may call a special meeting of the district when it deems it
14 necessary or prudent to do so and shall call a special meeting of the district
15 when action by the voters is necessary under this chapter. In addition, the
16 board shall call a special meeting upon receipt of a petition signed by at least
17 five percent of the registered voters within the district, or upon request of at
18 least 25 percent of district members evidenced by formal resolutions of the
19 legislative bodies of such members or by petitions signed by at least five
20 percent of the member's registered voters. The board may rescind the call of a
21 special meeting called by it but not a special meeting called as provided in this

1 subsection. The board may schedule the date of such special meetings to
2 coincide with the date of annual municipal meetings, primary elections,
3 general elections, or similar meetings when the electorate within the district
4 members will be voting on other matters.

5 (b) At any special meeting of the district, voters of each district member
6 shall cast their ballots at such polling places within the municipality of their
7 residence as shall be determined by the board of the district in cooperation with
8 the boards of civil authority of each district member.

9 (c) Not less than three nor more than 14 days prior to any special meeting,
10 at least one public hearing shall be held by the board at which time the issues
11 under consideration shall be presented and comments received. Notice of such
12 public hearing shall include the publication of a warning in a newspaper of
13 general circulation in the district at least once a week, on the same day of the
14 week, for three consecutive weeks, the last publication not less than five nor
15 more than 10 days before the public hearing. Such notice may be included in
16 the warning called for in subsection (d) of this section.

17 (d) The board shall warn a special meeting by filing a notice with the clerk
18 of each district member and by posting a notice in at least five public places in
19 each municipality in the district not less than 30 nor more than 40 days before
20 the meeting. In addition, the warning shall be published in a newspaper of
21 general circulation in the district once a week on the same day of the week for

1 three consecutive weeks before the meeting, the last publication to be not less
2 than five nor more than 10 days before the meeting.

3 (e) The original warning of any special meeting of the district shall be
4 signed by a majority of the board and shall be filed with the clerk before being
5 posted.

6 (f) The posted and published warning notification shall include the date,
7 time, place, and nature of the meeting. It shall, by separate articles,
8 specifically indicate the business to be transacted and the questions to be
9 voted upon.

10 (g) The Australian ballot system shall be used at all special meetings of the
11 district when voting is to take place. Ballots shall be commingled and counted
12 under the supervision of the district clerk.

13 (h) All legal voters of the district members shall be legal voters of the
14 district. The district members shall post and revise checklists in the same
15 manner as for municipal meetings prior to any district meeting at which there
16 will be voting.

17 (i) At all special meetings, the provisions of 17 V.S.A. chapter 51 regarding
18 election officials, voting machines, polling places, absentee voting, process of
19 voting, count and return of votes, validation, recounts and contest of elections,
20 reconsideration or rescission of vote, and jurisdiction of courts shall apply
21 except where clearly inapplicable. The clerk shall perform the functions

1 assigned to the Secretary of State under that chapter. The Washington
2 Superior Court shall have jurisdiction over petitions for recounts. Election
3 expenses shall be borne by the district, unless within 30 days of the date of
4 such resolution there is filed with the clerk of the district a request to call a
5 special district meeting under this section to consider a proposition to rescind
6 such resolution.

7 § 3081. WITHDRAWAL OF A MEMBER MUNICIPALITY

8 A district member may withdraw from the district upon the terms and
9 conditions specified below:

10 (1) Prior to the district pledging communications plant net revenues, or
11 entering into a long-term contract, or contract subject to annual appropriation,
12 a district member may vote to withdraw in the same manner as the vote for
13 admission to the district. If a majority of the voters of a district member
14 present and voting at a meeting duly warned for such purpose votes to
15 withdraw from the district, the vote shall be certified by the clerk of that
16 municipality and presented to the board. Thereafter, the board shall give
17 notice to the remaining district members of the vote to withdraw and shall hold
18 a meeting to determine if it is in the best interest of the district to continue to
19 exist. Representatives of the district members shall be given an opportunity to
20 be heard at such meeting together with any other interested persons. After
21 such a meeting, the board may declare the district dissolved immediately or as

1 soon thereafter as its financial obligations and of each district member on
2 account thereof have been satisfied, or it may declare that the district shall
3 continue to exist despite the withdrawal of such member. The membership of
4 the withdrawing municipality shall terminate as soon after such vote to
5 withdraw as any financial obligations of the withdrawing municipality have
6 been paid to the district.

7 (2) After the district has pledged communications plant net revenues, or
8 entered into a long-term contract or contract subject to annual appropriations, a
9 district member may vote to withdraw in the same manner as the vote for
10 admission to the district. It shall be a condition that the withdrawing
11 municipality shall enter into a written agreement with the district whereby such
12 municipality shall be obligated to continue to pay its share of any contract
13 obligations incurred by the district for the remaining term of the contract term.

14 § 3082. ADMISSION OF DISTRICT MEMBERS

15 The board may authorize the inclusion of additional district members in the
16 communications union district upon such terms and conditions as it in its sole
17 discretion shall deem to be fair, reasonable, and in the best interests of the
18 district. The legislative body of any nonmember municipality which desires to
19 be admitted to the district shall make application for admission to the board.
20 The board shall determine the financial, economic, governance, and
21 operational effects that are likely to occur if such municipality is admitted and

1 thereafter either grant or deny authority for admission of the petitioning
2 municipality. If the board grants such authority, it shall also specify any terms
3 and conditions, including financial obligations, upon which such admission is
4 predicated. Upon resolution of the board, such applicant municipality shall
5 become and thereafter be a district member.

6 § 3083. DISSOLUTION

7 (a) If the board by resolution approved by two-thirds of all the votes
8 entitled to be cast determines that it is in the best interests of the public, the
9 district members, and the district that such district be dissolved, and if the
10 district then has no outstanding obligations under pledges of communications
11 plant net revenue, long-term contracts, or contracts subject to annual
12 appropriation, or will have no such debt or obligation upon completion of the
13 plan of dissolution, it shall prepare a plan of dissolution and thereafter adopt a
14 resolution directing that the question of such dissolution and the plan of
15 dissolution be submitted to the voters of the district at a special meeting thereof
16 duly warned for such purpose. If a majority of the voters of the district present
17 and voting at such special meeting shall vote to dissolve the district and
18 approve the plan of dissolution, the district shall cease to conduct its affairs
19 except insofar as may be necessary for the winding up thereof. The board shall
20 immediately cause a notice of the proposed dissolution to be mailed to each
21 known creditor of the district and to the Secretary of State and shall proceed to

1 collect the assets of the district and apply and distribute them in accordance
2 with the plan of dissolution.

3 (b) The plan of dissolution shall:

4 (1) identify and value all unencumbered assets;

5 (2) identify and value all encumbered assets;

6 (3) identify all creditors and the nature or amount of all liabilities and
7 obligations;

8 (4) identify all obligations under long-term contracts and contracts
9 subject to annual appropriation;

10 (5) specify the means by which assets of the district shall be liquidated
11 and all liabilities and obligations paid and discharged, or adequate provision
12 made for the satisfaction thereof;

13 (6) specify the means by which any assets remaining after discharge of
14 all liabilities shall be liquidated if necessary; and

15 (7) specify that any assets remaining after payment of all liabilities shall
16 be apportioned and distributed among the district members according to a
17 formula based upon population.

18 (c) When the plan of dissolution has been implemented, the board shall
19 adopt a resolution certifying that fact to the district members whereupon the
20 district shall be terminated, and notice thereof shall be delivered to the

1 Secretary of the Senate and the Clerk of the House of Representatives in
2 anticipation of confirmation of dissolution by the General Assembly.

3 Sec. 21. EAST CENTRAL VERMONT TELECOMMUNICATIONS

4 DISTRICT

5 The East Central Vermont Telecommunications District approved by the
6 voters of the Towns of Norwich, Randolph, Sharon, Strafford, and Woodstock
7 on March 3, 2015, qualifies as a communications union district under
8 30 V.S.A. chapter 82, if so approved by the legislative body of each
9 municipality after enactment of 30 V.S.A. chapter 82.

10 * * * VEDA Loans to Telecommunications Union Districts * * *

11 Sec. 22. 10 V.S.A. § 212 is amended to read:

12 § 212. DEFINITIONS

13 As used in this chapter:

14 * * *

15 (6) “Eligible facility” or “eligible project” means any industrial,
16 commercial, or agricultural enterprise or endeavor approved by the authority
17 that meets the criteria established in the Vermont Sustainable Jobs Strategy
18 adopted by the Governor under section 280b of this title, including land and
19 rights in land, air, or water, buildings, structures, machinery, and equipment of
20 such eligible facilities or eligible projects, except that an eligible facility or
21 project shall not include the portion of an enterprise or endeavor relating to the

1 sale of goods at retail where such goods are manufactured primarily out of
2 state, and except further that an eligible facility or project shall not include the
3 portion of an enterprise or endeavor relating to housing. Such enterprises or
4 endeavors may include:

5 * * *

6 (N) industrial park planning, development, or improvement; ~~or~~

7 (O) for purposes of subchapter 5 of this chapter, a
8 telecommunications plant, as defined in 24 V.S.A. § 1911(2), owned by a
9 municipality individually or in concert with one or more other municipalities
10 as a communications union district established under 30 V.S.A. chapter 82; or

11 (P) any combination of the foregoing activities, uses, or purposes.

12 An eligible facility may include structures, appurtenances incidental to the
13 foregoing such as utility lines, storage accommodations, offices, dependent
14 care facilities, or transportation facilities.

15 * * *

16 Sec. 23. 10 V.S.A. § 261 is amended to read:

17 § 261. ADDITIONAL POWERS

18 In addition to powers enumerated elsewhere in this chapter, the
19 Authority may:

20 (1) make loans secured by mortgages, which may be subordinate to one
21 or more prior mortgages, upon application by the proposed mortgagor, who

1 may be a private corporation, partnership or person, or municipality financing
2 an eligible project described in subdivision 212(6) of this title, upon such terms
3 as the Authority may prescribe, for the purpose of financing the establishment
4 or expansion of eligible facilities. Such loans shall be made from the Vermont
5 Jobs Fund established under subchapter 3 of this chapter. The Authority may
6 provide for the repayment and redeposit of such loans in the manner provided
7 hereinafter.

8 * * *

9 Sec. 24. 10 V.S.A. § 262 is amended to read:

10 § 262. FINDINGS

11 Before making any loan, the Authority shall receive from an applicant a
12 loan application in such form as the Authority may by regulation prescribe, and
13 the Authority, or the Authority's loan officer pursuant to the provisions of
14 subdivision 216(15) of this title, shall determine and incorporate findings in its
15 minutes that:

16 * * *

17 (5) The principal obligation of the Authority's mortgage does not
18 exceed \$1,500,000.00 which may be secured by land and buildings or by
19 machinery and equipment, or both; unless:

20 (A) an integral element of the project consists of the generation of
21 heat or electricity employing biomass, geothermal, methane, solar, or wind

1 energy resources to be primarily consumed at the project, in which case the
2 principal obligation of the Authority's mortgage does not exceed
3 \$2,000,000.00, which may be secured by land and by buildings, or machinery
4 and equipment, or both; such principal obligation does not exceed 40 percent
5 of the cost of the project; and the mortgagor is able to obtain financing for the
6 balance of the cost of the project from other sources as provided in the
7 following section; or

8 (B) a single loan for which the principal amount of the Authority's
9 mortgage does not exceed \$3,000,000.00 for an eligible facility consisting of a
10 municipal telecommunications plant, as defined in 24 V.S.A. § 1911(2); or

11 * * *

12 Sec. 25. 10 V.S.A. § 263 is amended to read:

13 § 263. MORTGAGE LOAN; LIMITATIONS

14 * * *

15 (b) Any loan of the ~~authority~~ Authority under this subchapter shall be for a
16 period of time and shall bear interest at such rate as determined by the
17 ~~authority~~ Authority and shall be secured by a mortgage on the eligible facility
18 for which the loan was made or upon the assets of a municipal communications
19 plant, including the net revenues derived from the operation thereof, or both.

20 The mortgage may be subordinate to one or more prior mortgages, including
21 the mortgage securing the obligation issued to secure the commitment of funds

1 from the independent and responsible sources and used in the financing of the
2 economic development project. Monies loaned by the authority shall be
3 withdrawn from the Vermont jobs fund fund and paid over to the mortgagor in
4 such manner as provided and prescribed by the rules and regulations of the
5 authority. All payments of principal and interest on the loans shall be
6 deposited by the authority in the Vermont jobs fund.

7 * * *

8 (h) All actions of a municipality taken under this subchapter for the
9 financing of an eligible project described in subsection 212(b) shall be as
10 authorized in section 245 of this title.

11 (i) The provisions of section 247 of this title shall apply to the financing of
12 an eligible project described in subdivision 216(6) of this title.

13 * * * Rapid Response; Pole Attachments * * *

14 **Sec. 26. POLE ATTACHMENTS; APPLICATIONS; DISPUTE**

15 **RESOLUTION**

16 (a) Within 90 days of this act's passage, the Public Service Board by order
17 shall institute a process for the filing of applications and the rapid and binding
18 resolution of disputes pertaining to the attachment of a wire, cable, or other
19 facility to an electric or communications pole for the purpose of supporting a
20 broadband, telecommunications, or cable television deployment project. This
21 process shall ensure that such projects proceed in a timely and coordinated

1 manner and shall include notice to all potentially affected persons. In issuing
2 this order, the Board shall have full authority to establish standards and
3 procedures for the earliest feasible filing of pole attachment applications such
4 that pole-owning utilities are able to complete their make-ready surveys and
5 make-ready work and to establish a dispute resolution process that uses an
6 expedited time frame and to which the contested case procedures of 3 V.S.A.
7 chapter 25 do not apply.

8 (b) The process instituted by the Public Service Board under this section
9 shall include a more rapid time frame for dispute resolution than is currently
10 provided under Public Service Board rule 3.700.

11 * * * Statutory Revision * * *

12 Sec. 27. STATUTORY REVISION

13 In its statutory revision capacity under 2 V.S.A. § 424, the Office of
14 Legislative Council shall, where appropriate in 30 V.S.A. chapter 88:

15 (1) replace the words “Public Service Board” with the words
16 “Department of Public Service”;

17 (2) replace the word “Board” with the word “Commissioner”; and

18 (3) make other similar amendments necessary to effect the purposes of
19 this act.

* * * Effective Dates * * *

1
2 Sec. 28. EFFECTIVE DATES

3 (a) This act shall take effect on July 1, 2015, except that this section and
4 Secs. 6(e) (Commissioner approval of all Vermont Telecommunications
5 Contracts), 13 (conversion of a meteorological station to wireless
6 telecommunications facility), 15 (retransmission fee reporting), 16 (E-911
7 operations and savings), 20 (telecommunications union district), 21 (ECFiber
8 qualifies as telecommunications union district), 22–25 (municipal
9 telecommunications projects eligible for VEDA lending), 26 (rapid response
10 pole attachments), and 27 (statutory revision authority) shall take effect on
11 passage.

12 (b) Secs. 17, 18, and 19 (transferring administration of the E-911 Board to
13 the Department of Public Safety) shall take effect upon a finding by the
14 Secretary of Administration that the administration of the E-911 system should
15 be transferred to the Department of Public Safety not later than July 1, 2015.

16
17 and that after passage the title of the bill be amended to read: “An act relating
18 to telecommunications”

19
20
21

1

2 (Committee vote: _____)

3

4

Senator _____

5

FOR THE COMMITTEE