

1 **Sections from Draft 1.3 that have been removed from this draft:**

- 2 1. **Repeal of cloud tax exemption**
3 2. **PEG/Pole attachment charge** (draft committee bill)
4

5 **TO THE HOUSE OF REPRESENTATIVES:**

6 The Committee on Ways and Means to which was referred House Bill No.
7 657 entitled “An act relating to the modernization of Vermont’s
8 communications taxes and fees” respectfully reports that it has considered the
9 same and recommends that the bill be amended by striking out all after the
10 enacting clause and inserting in lieu thereof the following:

11 * * * VUSF; Per-Line Contribution Method; Vermont 988 * * *

12 Sec. 1. 30 V.S.A. § 7501(a) is amended to read:

13 § 7501. PURPOSE; DEFINITIONS

14 (a) It is the purpose of this chapter to create a financial structure that will
15 allow every Vermont household to obtain basic telecommunications service at
16 an affordable price; and to finance that structure with a ~~proportional~~ charge on
17 all telecommunications transactions that interact with the public switched
18 network.

19 (b) As used in this chapter:

20 * * *

21 (8) “Telecommunications service” means the transmission of any **real-**
22 **time,** interactive electromagnetic communications that passes through the
23 public switched network. The term includes transmission of voice, image,

1 data, and any other information, by means of wire, electric conductor cable,
2 optic fiber, microwave, radio wave, or any combinations of such media, and
3 the leasing of any such service.

4 (A) Telecommunications service includes:

5 (i) local telephone service, including any facility or service
6 provided in connection with such local telephone service;

7 (ii) toll telephone service;

8 (iii) directory assistance;

9 (iv) two-way cable television service interconnected VoIP service,
10 as defined in 47 C.F.R. § 9.3, as may be amended; and

11 (v) mobile telephone or telecommunication service, both analog
12 and digital mobile telecommunications service, as defined in 4 U.S.C.
13 § 124(7).

14 * * *

15 Sec. 2. 30 V.S.A. § 7521 is amended to read:

16 § 7521. CHARGE IMPOSED; WHOLESAL EXEMPTION

17 (a) A Universal Service Charge is imposed on all retail telecommunications
18 service provided to a Vermont address. Where the location of a service and the
19 location receiving the bill differ, the location of the service shall be used to
20 determine whether the Charge applies. The Charge is imposed on the person
21 purchasing the service, but shall be collected by the telecommunications

1 service provider. Each As applicable, each telecommunications service
2 provider shall include in its tariffs filed at the Public Utility Commission a
3 description of its billing procedures for the Universal Service Charge.

4 * * *

5 (c) In the case of mobile telecommunications service, the Universal Service
6 Charge is imposed when the customer’s place of primary use is in Vermont.
7 The As used in this subsection, the terms “customer,” and “place of primary
8 use,” and “mobile telecommunications service” have the meanings given in
9 4 U.S.C. § 124. All provisions of 32 V.S.A. § 9782 shall apply to the
10 imposition of the Universal Service Charge under this section.

11 (d) [Repealed.] In the case of interconnected VoIP service, the Universal
12 Service Charge is imposed when the customer’s place of primary use is in
13 Vermont. As used in this subsection, the term “place of primary use” means
14 the street address where the customer’s use of interconnected VoIP service
15 primarily occurs or a reasonable proxy as determined by the interconnected
16 VoIP service provider, such as the customer’s registered location for 911
17 purposes.

18 * * *

1 Sec. 3. 30 V.S.A. § 7523 is amended to read:

2 § 7523. RATE OF CHARGE

3 (a)(1) ~~Beginning on July 1, 2014, the~~ Except as provided in subsection
4 7521(e) of this chapter, which pertains to prepaid wireless telecommunications
5 service, and in subdivision (4) of this subsection, the monthly rate of charge
6 shall be two percent of retail telecommunications service. \$0.72 for each retail
7 access line in service.

8 (2) The number of access lines a telecommunications service provider
9 provides a customer shall be deemed equal to the number of inbound or
10 outbound, whichever is greater, two-way communications by any technology
11 that the customer can maintain at the same time as provisioned by the
12 provider's service [OR] the maximum number of access lines that may be for,
13 are capable of being] active, simultaneously, under the customer's purchased
14 service plan.

15 (3) As used in this section,

16 (A) “access line” means a wire or wireless connection that provides
17 real-time, two-way voice telecommunications service or interconnected VoIP
18 service to or from any device used by a customer, regardless of technology,
19 that is associated with a 10-digit NPA-NXX number or other unique identifier
20 and with a service location or place of primary use in Vermont and that is
21 capable of accessing the 911 system.

1 ~~(B) “Interconnected VoIP service” has the meaning given such term~~
2 ~~under 47 C.F.R. § 9.3, as may be amended.~~

3 ~~(C) “Place of primary use” means:~~

4 ~~(i) For mobile telecommunications service, the street address~~
5 ~~where the customer’s use of the mobile telecommunications service primarily~~
6 ~~occurs that must be:~~

7 ~~(I) the residential street address or the primary business street~~
8 ~~address of the customer; and~~

9 ~~(II) within the service area of the telecommunications provider~~
10 ~~with whom the customer contracts for the provision of mobile~~
11 ~~telecommunications service.~~

12 ~~(ii) For interconnected VoIP service, the street address where the~~
13 ~~customer’s use of interconnected VoIP service primarily occurs or a reasonable~~
14 ~~proxy as determined by the interconnected VoIP service provider, such as the~~
15 ~~customer’s registered location for 911 purposes.~~

16 ~~(4) A customer enrolled in the federal Lifeline program or the Vermont~~
17 ~~Lifeline program, or both, is exempt from the Charge established by this~~
18 ~~chapter.~~

19 ~~(b) Beginning on July 1, 2019, the rate of charge established under~~
20 ~~subsection (a) of this section shall be increased by four-tenths of one percent of~~
21 ~~retail telecommunications service, and the monies collected from this increase~~

1 From the monies collected by the Universal Service Charge under this chapter,
2 17 percent shall be transferred to the Vermont Community Broadband Fund
3 established under section 8083 of this title, and up to \$120,000.00 shall be used
4 to fund a Rural Broadband Technical Assistance Specialist whose duties shall
5 include providing outreach, technical assistance, and other support services to
6 communications union districts established pursuant to chapter 82 of this title
7 and other units of government, nonprofit organizations, cooperatives, and for-
8 profit businesses for the purpose of expanding broadband service to unserved
9 and underserved locations. Support services also may include providing
10 business model templates for various approaches, including formation of or
11 partnership with a cooperative, a communications union district, a rural
12 economic development infrastructure district, an electric utility, or a new or
13 existing ~~Internet~~ internet service provider as operator of the network.

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

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

19 (e)(1) Notwithstanding any other provision of law to the contrary,
20 ~~beginning on January 1, 2020, the~~ a Universal Service Charge of 2.4 percent
21 shall be imposed on all retail sales of prepaid wireless telecommunications

1 service subject to the sales and use tax imposed under 32 V.S.A. chapter 233.
2 The charges shall be collected by sellers or marketplace facilitators collecting
3 sales tax pursuant to 32 V.S.A. § 9713 and remitted to the Department of
4 Taxes in the manner provided under 32 V.S.A. chapter 233. Upon receipt of
5 the charges, the Department of Taxes shall have 30 days to remit the funds to
6 the fiscal agent selected under section 7503 of this chapter. The Commissioner
7 of Taxes shall establish registration and payment procedures applicable to the
8 Universal Service Charge imposed under this subsection consistent with the
9 registration and payment procedures that apply to the sales tax imposed on
10 such services and also consistent with the administrative provisions of
11 32 V.S.A. chapter 151, including any enforcement or collection action
12 available for taxes owed pursuant to that chapter.

13 Sec. 5. 30 V.S.A. § 7511 is amended to read:

14 § 7511. DISTRIBUTION GENERALLY

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

18 ~~(A)~~(1) to pay costs payable to the fiscal agent under its contract with
19 the Commissioner;

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

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

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

5 ~~(E)~~(5) to support the Vermont 988 Suicide and Crisis Lifeline centers
6 in the manner provided in section 7513a of this title; and

7 (6) to support the Connectivity Fund established in section 7516 of this
8 title; ~~and,~~

9 ~~(2) for fiscal year 2016 only, any personnel or administrative costs~~
10 ~~associated with the Connectivity Initiative shall come from the Connectivity~~
11 ~~Fund, as determined by the Commissioner in consultation with the~~
12 ~~Connectivity Board.~~

13 (b) If insufficient funds exist to support all of the purposes contained in
14 subsection (a) of this section, the Commissioner shall allocate the available
15 funds, giving priority in the order listed in subsection (a).

16 Sec. 6. 30 V.S.A. § 7513a is added to read:

17 § 7513a. VERMONT 988 SUICIDE AND CRISIS LIFELINE

18 The fiscal agent shall make distributions to the Commissioner of Mental
19 Health to fund the operational and capital costs of the Vermont 988 Suicide
20 and Crisis Lifeline centers, within annual limits approved in advance by the
21 General Assembly.

1 * * * Communications Property; Real Estate; Fair Market Value * * *

2 Sec. 7. TELEPHONE TAX; REPEAL; **TRANSITION [From Tax Dept]**

3 (a) 32 V.S.A. § 8521 (telephone personal property tax) is repealed on **July**
4 **1, 2024 July 1, 2025.** **The final monthly installment payment of the telephone**
5 **personal property tax under 32 V.S.A. § 8521 levied on the net book value of**
6 **the taxpayer's personal property as of December 31, 2024 shall be due on or**
7 **before July 25, 2025.**

8 (b) 32 V.S.A. § 8522 (alternative telephone gross revenues tax) is repealed
9 on **July 1, 2024 January 1, 2026.** **The final quarterly payment of the alternative**
10 **tax under 32 V.S.A. § 8522 shall be due on or before January 25, 2026.**

11 (c) Any taxpayer who paid the alternative tax imposed by 32 V.S.A. § 8522
12 **prior to the repeal of the tax on January 1, 2026 shall become subject to the**
13 **income tax imposed under 32 V.S.A. chapter 151 beginning with the**
14 **taxpayer's first income tax year starting on or after January 1, 2025. No**
15 **alternative tax under 32 V.S.A. § 8522 shall be due for any period included in**
16 **the taxpayer's income tax filing for tax years starting on or after January 1,**
17 **2025.**

18 (d) In fiscal year 2025, the Division of Property Valuation and Review
19 **of the Department of Taxes and all communications service providers with**
20 **taxable communications property in Vermont shall be subject to the inventory**
21 **and valuation provisions prescribed in 32 V.S.A. § 4452, as applicable.**

1 Sec. 8. 32 V.S.A. § 3803(2) is amended to read:

2 (2) real and personal estate, except land and buildings, used in ~~carrying~~
3 ~~on telephone business or in~~ operating a transportation company in this State;
4 and

5 Sec. 9. 32 V.S.A. § 5401(10) is amended to read:

6 (10) “Nonhomestead property” means all property except:

7 * * *

8 (B) Property that is subject to the tax on railroads imposed by chapter
9 211, subchapter 2 of this title ~~or the tax on telephone companies imposed by~~
10 ~~chapter 211, subchapter 6 of this title.~~

11 * * *

12 (D) Personal property, machinery, inventory and equipment, ski lifts,
13 and snow-making equipment for a ski area; provided, however, this
14 subdivision (10) shall not exclude from the definition of “nonhomestead
15 property” the following real or personal property:

16 (i) utility cables and lines, poles, and fixtures ~~(except those taxed~~
17 ~~under chapter 211, subchapter 6 of this title)~~, provided that utility cables, lines,
18 poles, and fixtures located on homestead property and owned by the person
19 claiming the homestead shall be taxed as homestead property; and

20 * * *

1 Sec. 10. 32 V.S.A. § 3602b is added to read:

2 § 3602b. COMMUNICATIONS PROPERTY

3 (a) All communications property shall be set in the grand list as real estate.

4 (b) Communications property owned by a nonmunicipal communications
5 service provider shall be taxed at appraisal value as defined in section 3481 of
6 this title.

7 (c) As used in this section, “communications property” means tangible
8 personal property used to enable the real-time, two-way, electromagnetic
9 transmission of information, such as audio, video, and data, that is so fitted and
10 attached as to be part of a local, state, national, or international
11 communications network, as well as facilities that are part of a cable television
12 system as defined in 30 V.S.A. § 501(2). The term includes wires, cables,
13 conduit, pipes, antennas, poles, wireless towers, machinery, distribution hubs,
14 splitters, switching equipment, routers, servers, power equipment, and any
15 other network equipment.

16 (d)(1) On or before May 1 of each year, the Division of Property Valuation
17 and Review of the Department of Taxes shall provide the listers in each
18 municipality with the valuation of all taxable communications property of any

1 communications service provider situated therein as reported by such provider
2 to the Division.

3 (2) On or before March 31 of each year, each communications service
4 provider shall submit to the Division a sworn inventory of all its taxable
5 communications property in a form that identifies the valuation of its property
6 in each municipality.

7 (3) The Division shall prescribe the form of the inventory required under
8 subdivision (2) of this subsection and the officer or officers who shall submit
9 the sworn inventory.

10 (4) The valuations provided to the listers pursuant to this section shall be
11 considered along with any other information as may reasonably be required
12 used by the listers in determining and fixing the valuations of communications
13 property for the purposes of ~~local taxation~~ property taxation.

14 Sec. 11. 32 V.S.A. § 3618(c)(1) is amended to read:

15 (1) “Business personal property” means tangible personal property of a
16 depreciable nature used or held for use in any trade, business, professional
17 practice, transaction, activity, or occupation conducted for profit, including all
18 furniture and fixtures, apparatus, tools, implements, books, machines, boats,
19 construction devices, and all personal property used or intended to be used for
20 the production, processing, fabrication, assembling, handling, or transportation
21 of anything of value, or for the production, transmission, control, or disposition

1 of power, energy, heat, light, water, or waste. “Business personal property”
2 does not include inventory, or goods and chattels so affixed to real property as
3 to have become part thereof, and that are therefore not severable or removable
4 without material injury to the real property, nor does it include poles, lines, and
5 fixtures that are taxable under sections 3620, 3602b, and 3659 of this title, nor
6 does it include communications property taxable under section 3602b of this
7 title.

8 Sec. 12. 32 V.S.A. § 3659 is amended to read:

9 § 3659. MUNICIPAL LANDS

10 Land and buildings of a municipal corporation, whether acquired by
11 purchase or condemnation and situated outside its territorial limits shall be
12 taxed by the municipality in which such land is situated. Said land shall be set
13 to such municipal corporation in the grand list of the town or city in which
14 such real estate is located at the value fixed in the appraisal next preceding the
15 date of acquisition of such property and taxed on such valuation. The value
16 fixed on such property at each appraisal thereafter shall be the same per acre as
17 the value fixed on similar property in the town or city. Improvements made
18 subsequent to the acquisition of the land shall not be taxed; except that an
19 additional tax not to exceed 75 percent of the appraisal of the land may be
20 levied in lieu of a personal property tax. Electric utility poles, lines, and pole
21 fixtures owned by a municipal utility lying beyond its boundaries shall be

1 taxed at appraisal value as defined in section 3481 of this title.

2 Communications property, as defined in section 3602b of this title, owned by a
3 municipality lying beyond its boundaries shall be taxed at appraisal value as
4 defined in section 3481 of this title.

5 **Sec. 13. FISCAL YEAR 2025; ONE-TIME APPROPRIATION;**

6 **VALUATION MODEL [From Tax Dept]**

7 In fiscal year 2025, \$150,000.00 shall be appropriated from the General
8 Fund to the Division of Property Valuation and Review of the Department of
9 Taxes to fund the creation of a property valuation model for communications
10 property.

11 * * * State Highway ROW; Leases; Licenses; Communications Providers and
12 Property * * *

13 Sec. 14. 19 V.S.A. § 26a is amended to read:

14 § 26a. DETERMINATION OF RENT TO BE CHARGED FOR LEASING
15 OR LICENSING STATE-OWNED PROPERTY UNDER THE
16 AGENCY'S JURISDICTION

17 (a) Except as otherwise provided by subsection (b) of this section, or as
18 otherwise provided by law, leases or licenses negotiated by the Agency under
19 5 V.S.A. §§ 204 and 3405 and section 26 and subsection 1703(d) of this title
20 ordinarily shall require the payment of fair market value rent, as determined by
21 the prevailing area market prices for comparable space or property. However,

1 the Agency may lease or license State-owned property under its jurisdiction for
2 less than fair market value when the Agency determines that the proposed
3 occupancy or use serves a public purpose or that there exist other relevant
4 factors, such as a prior course of dealing between the parties, that justify
5 setting rent at less than fair market value.

6 (b)(1) Unless Notwithstanding any other provision of law to the contrary
7 and unless otherwise required by federal law, beginning on or before October
8 1, 2024, the Agency shall annually assess, collect, and deposit in the
9 Transportation Fund a reasonable charge ~~or payment~~ with respect to leases or
10 licenses for access to or use of State-owned rights-of-way by ~~providers of~~
11 ~~broadband or wireless communications facilities or services~~ communications
12 service providers for communications property as defined in 32 V.S.A.
13 ~~§ 3602b. The Agency may waive such charge or payment in whole or in part if~~
14 ~~the provider offers to provide comparable value to the State so as to meet the~~
15 ~~public good as determined by the Agency and the Department of Public~~
16 ~~Service. For the purposes of this section, the term “comparable value to the~~
17 ~~State” shall be construed broadly to further the State’s interest in ubiquitous~~
18 ~~broadband and wireless service availability at reasonable cost. Any waiver of~~
19 ~~charges or payments for comparable value to the State granted by the Agency~~
20 ~~may not exceed five years. Thereafter, the Agency may extend any waiver~~
21 ~~granted for an additional period not to exceed five years if the Agency makes~~

1 ~~affirmative written findings demonstrating that the State has received and will~~
2 ~~continue to receive value that is comparable to the value to the provider of the~~
3 ~~waiver, or it may revise the terms of the waiver in order to do so.~~

4 (2) As used in this subsection, “reasonable charge” means:

5 (A) \$270.00 for each wireless communications facility.

6 (B) A per linear foot fee for digital subscriber line, coaxial cable, and
7 fiber optic facilities as follows:

8 (i) \$0.02 in a county that has a population of less than 25,000;

9 (ii) \$0.07 in a county that has a population of at least 25,000 but
10 less than 100,000; and

11 (iii) \$0.13 in a county that has a population of at least 100,000.

12 (3) The charge required by this subsection shall not apply to
13 communications property owned by:

14 (A) a communications union district;

15 (B) a small communications carrier as defined in 30 V.S.A.
16 § 8082(10);

17 (C) an internet service provider that qualifies as an “eligible
18 provider” under 30 V.S.A. § 8082(4), provided the lease or license for access
19 to or use of State-owned rights of way is part of a “universal service plan” as
20 defined in 30 V.S.A. § 8082(12), as certified by the Vermont Community
21 Broadband Board; or

1 (D) a cable television service provider, provided the property is part
2 of a cable television system subject to a certificate of public good issued by the
3 Public Utility Commission under 30 V.S.A. chapter 13.

4 (c) Nothing in this section shall authorize the Agency to impose a charge or
5 payment for the use of a highway right-of-way that is not otherwise authorized
6 or required by State or federal law.

7 ~~(d) Nothing in this section shall be construed to impair any contractual~~
8 ~~rights existing on June 9, 2007.~~ The State shall have no authority under this
9 section to waive any sums due to a railroad. The State shall also not offer any
10 grants or waivers of charges for any new broadband installations in segments
11 of rail corridor where an operating railroad has installed or allowed installation
12 of fiber optic facilities prior to June 9, 2007 unless the State offers equivalent
13 terms and conditions to the owner or owners of existing fiber optic facilities.

14 (e) Beginning on or before September 1, 2024, and annually thereafter, the
15 holder of a lease or license pursuant to subsection (b) of this section shall
16 provide a detailed inventory of all property in the State right of way pursuant
17 to such lease or license. The inventory shall include the regulatory status of
18 the lease or license holder, categorization of all communications property by
19 type and by its location in the right of way, and a description of the service or
20 services enabled by such property, as applicable.

1 (f) Notwithstanding 2 V.S.A. § 20(d), beginning on January 1, 2025, and
2 annually thereafter, the Agency shall submit a written report to the General
3 Assembly itemizing all charges and payments collected under this section, as
4 well as an aggregated statewide inventory of the communications property
5 described in subsection (e) of this section. The statewide inventory shall be
6 shared with the Commissioner of Taxes, the Commissioner of Public Service,
7 and the Secretary of Administration.

8 * * * Effective Dates * * *

9 Sec. 15. EFFECTIVE DATES

10 This act shall take effect on July 1, 2024, except that:

11 (1) Secs. 1–6 (VUSF contribution method; 988 funding) shall take effect
12 on July 1, 2025.

13 (2) This section and Sec. 7 (repeal of the telephone tax) shall take effect
14 on passage.

15 (3) Secs. 8–12 (communications property tax) shall take effect on July 1,
16 2025, and shall apply to grand lists lodged on or after April 1, 2025. [From
17 Tax Dept.]

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19
20
21

1

2 (Committee vote: _____)

3

4

Representative _____

5

FOR THE COMMITTEE