VERMONT LEGISLATIVE
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Fiscal Note
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H.657 – An act relating to modernization of Vermont's communications taxes and fees

Draft 1.3*

Bill Summary

This bill proposes to update and change taxes and fees assessed on telecommunications and cable providers, and certain types of digital services. Provisions of the bill include:

- Repealing the sales tax exemption for "prewritten software accessed remotely"
- Repealing the 2.4% Universal Service Charge (USC) for landline, postpaid wireless, and interconnected VoIP consumers and replacing it with a $0.72 monthly charge per access line
- Adding the 988 Suicide and Crisis Hotline to the list of programs funded through the Vermont Universal Service Fund (VUSF)
- Repealing the telephone personal property tax
- Placing "communications property" on the grand list as real property
- Establishing a fee structure for communications service providers using the State right of way and requiring the Agency of Transportation (AOT) to start assessing the fee by October 1, 2024
- Creating the Community Media Public Benefit Fund, which would fund Public, Educational, and Government Access (PEG Access) TV (otherwise known as Access Management Organizations or AMOs) operating costs through a $15 charge on each utility pole attachment

Fiscal Impact

The bill would have various fiscal impacts summarized below:

Item	Bill Section	Estimated Annual Revenue Impact	Fund
Repeal of sales tax exemption for "prewritten software accessed remotely"	Sections 1-2	$22.20 million in additional revenue starting in FY 2026	Education Fund
$0.72 monthly per line charge	Sections 3-7	$7.96 million in total, $3.01 million in additional annual revenue	Vermont Universal Service Fund
Repeal of telephone personal property tax	Section 8-10	$2.10 million annual revenue loss	General Fund
Inclusion of communications property on the Grand List	Section 11-13	$2.50-$5.00 million annual revenue starting in FY 2026	Education Fund
Right of way (ROW) fees	Section 14	Indeterminate Positive Revenue	Transportation Fund
Community media public benefit fund – pole attachment charge	Section 15-16	$8.27 million annual revenue starting in FY 2025	Special Fund

These fiscal impacts are spread across the three major funds and two special funds:

Fund	Estimated Annual Revenue	Fiscal Year Effective Date	Sources
Education Fund	$24.7-$27.2 million	2026	Repeal of the sales tax exemption for prewritten software accessed remotely, inclusion of communications property on the Grand List
General Fund	($2.1 million)	2025	Repeal of the telephone personal property tax
Transportation Fund	Indeterminate Positive Revenue	2025	Right of way (ROW) fees
Vermont Universal Service Fund[1]	$7.96 million total, $3.01 million additional	2026	$0.72 monthly per line charge
Special Fund	$8.27 million	2025	$15 annual pole attachment charge

Background and Details

The following sections provide context for the fiscal components of the bill:

Sections 1-2: Prewritten Computer Software

Section 2 would repeal Section G.8 of Act 51 (2015), which exempts prewritten software accessed remotely, often called "cloud" services, from the sales and use tax. This repeal would extend the sales and use tax to the following types of services:[2]

Type of Service	Definition	Examples
Software as a Service (SaaS)	Service provider hosts software applications over the internet for a consumer.	QuickBooks, Dropbox, Google Apps, Square
Platform as a Service (PaaS)	Provides a framework for developers to build on and create customized applications	Squarespace, Force.com (as a part of Salesforce)
Infrastructure as a Service (IaaS)	Service provider owns, maintains, operates, and houses equipment (such as hardware, servers, network components, etc.) used to support a customer's operations.	Amazon Web Services, Google Compute Engine

This section would not apply to streaming services and software installed on a computer, which are currently subject to the sales tax, or to custom software and maintenance/technical support services, which would continue to be exempt from the tax.

The value of cloud services is expected to grow rapidly as businesses move more services to the cloud. The market research firm Gartner forecasted 17.9% growth in global SaaS spending from 2022 to 2023. By 2027, Gartner expects total global cloud market value will exceed $1 trillion. [3] The Joint Fiscal Office (JFO) estimates reflect this anticipated growth. In May 2021, JFO estimated that repeal of the sales tax exemption on cloud services would generate $11 million. JFO's current estimate for a full year implementation is $22.2

[1] VUSF is not a special fund pursuant to 32 V.S.A. § 585, though money collected by the Department of Taxes from sellers of prepaid wireless plans is deposited in a "Universal Service Charges" special fund before being remitted to the fiscal agent.
[2] These categories of services are not uniformly defined by the computer industry and are presented as examples of the types of services that would no longer be exempted.
[3] https://www.gartner.com/en/newsroom/press-releases/2023-04-19-gartner-forecasts-worldwide-public-cloud-end-user-spending-to-reach-nearly-600-billion-in-2023; https://www.gartner.com/en/newsroom/press-releases/2023-11-29-gartner-says-cloud-will-become-a-business-necessity-by-2028

million.[4]

Sections 3-7: Vermont Universal Service Fund

VUSF was created in 1994 to provide equal access to affordable telecommunications and services, including Enhanced 911 (E-911) call-taking and routing. Currently, services in VUSF are funded by a 2.4% Universal Service Charge (USC) on retail telecommunications service, including landline, wireless, and interconnected VoIP services. Statute requires that 1/6th of revenue from the charge goes to the Vermont Community Broadband Fund and that the remaining revenue goes to five services in the priority order outlined in 30 V.S.A. § 7511(a)(1).

Section 3 would repeal the current percentage charge on retail landline, postpaid wireless, and interconnected VoIP service and replace it with a monthly $0.72 per line fee. Prepaid wireless services would continue to be assessed the 2.4% USC.

Section 6 would add the 988 Suicide and Crisis Lifeline to the statutory VUSF funding order, between E-911 and the Connectivity Fund. The proposed new statutory funding order is shown below:

1. Costs of the fiscal agent that manages the Fund
2. Telecommunications Relay Services (TRS): Allows those with hearing or speech disabilities to place or receive telephone calls[5]
3. The Vermont Lifeline Program: Offers a monthly discount on telephone service for low-income consumers[6]
4. E-911 Services: The E-911 system reports phone number and location information to certified call-takers to allow for more efficient routing to the appropriate public safety dispatchers[7]
5. 988 Suicide and Crisis Lifeline: The 988 national call center network provides free and confidential support to people in crisis over the phone or through text.
6. Connectivity Fund: The Connectivity Fund supports both Connectivity Initiative grants and the High-Cost Program[8]

The number of lines in Vermont determines the amount of revenue generated by the $0.72 per line fee. According to Federal Communications Commission (FCC) data, as of June 2022 Vermont had 542,000 wireless subscriptions and 297,000 landline and interconnected VoIP subscriptions. These 839,000 subscriptions would be assessed the proposed $0.72 monthly per line charge. The 80,000 prepaid subscriptions in Vermont would continue to be assessed the 2.4% USC. In fiscal year 2026, the first year of the new charge, the per line fee would generate $7.96 million, $3.01 million beyond what is currently generated by the USC.

The table below shows the estimated allocation of these funds to different programs that would be included in the statutory funding order compared to actual fiscal year 2023 revenues and allocations. (Note: due to the uncertain 988 funding need in fiscal year 2026, the table shows the estimated revenue the program could use before expenses would outpace revenues. The figure presented for 988 below does not represent the forecasted budget for 988 in fiscal year 2026).

[4] https://legislature.vermont.gov/Documents/2022/WorkGroups/Senate%20Finance/Taxes/Cloud%20Tax%202022/W~Graham%20Campbell~Sales%20Tax%20on%20Remotely%20Accessed%20Software~4-5-2022.pdf

[5] https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.

[6] https://publicservice.vermont.gov/lifeline-telecommunications-program.

[7] https://www.fcc.gov/general/9-1-1-and-e9-1-1-services.

[8] Per 30 V.S.A. § 7515, the High-Cost program offers support for capital network improvements in "high-cost" areas.

Current and Proposed Vermont Universal Service Fund Resources (in millions) **Program**	**FY 2023 Revenue – 2.4% Charge**	**Estimated FY 2026 Revenue – H.657**
Total Revenue	**4.95**	**7.96**
Vermont Community Broadband Board	0.82	1.35
Fiscal Agent	0.11	0.13
TRS and Equipment	0.06	0.26
Lifeline	0.15	0.11
E-911	3.80	5.10
988 Suicide Prevention Line	N/A	Up to 1.00
Connectivity Fund	0	Balance of revenues available from uses above

Sections 8-10: Repeal of Telephone Personal Property Tax

Sections 8-10 would repeal the telephone personal property tax (TPPT), which currently assesses a 2.37% tax on the net book value of personal property used in whole or in part for conducting a telephone business, including materials and supplies. Real property is not subject to the tax. Since fiscal year 2021, the TPTT has generated between $2.3 and $2.5 million per year. The Emergency Board's adopted January consensus revenue forecast estimates that in fiscal year 2025, the TPTT will generate $2.1 million in General Fund revenue. That revenue would be lost if the tax is repealed.

Sections 11-13: Tax Communications Property as Real Estate

These sections would define communications property and set communication property on the Grand List as real estate. Communications property includes wires, conduit, pipes, antennas, poles, and wireless towers that are part of a communications network. This definition also includes cable television system components. Providers would submit an inventory of such property to the Division of Property Valuation and Review (PVR) by March 31 of each year. PVR would then provide this information to municipalities. Under current law, communications property falls into one of three categories:

Real property: Qualities of a communications tower, such as whether it is on owned or leased land, fixed or movable, etc. determine whether it is taxed as real or personal property.[9] The current Education Fund value of towers on the Grand List is estimated to range between $2.5 and $4 million.

Cable Personal Property: Cable lines and fixtures are subject to the education property tax through 32 V.S.A. § 5401(10)(D)(i). According to the 2024 PVR Annual Report, cable personal property on the Grand List was valued at $127.9 million in 2023, which translates into approximately $1.8 million in Education Fund revenue.[10]

Business personal property: In 32 V.S.A. § 3618, business personal property refers to tangible personal property that is "held for use in any trade, business, professional practice, transaction, activity, or occupation conducted for profit." Forty-two towns currently tax machinery and equipment, and eight tax inventory. Business personal property is currently exempt from the statewide education tax.

Through the changes proposed in sections 11-13, some property that is currently categorized as business personal property will become communications property and thus subject to the non-homestead property tax. Estimating the value of property added is challenging and relies on other states that centrally assess the value of utility property. JFO estimates that these changes will increase Education Fund revenues by between $2.5 and $5 million annually starting in fiscal year 2026. The change will take an additional year to take effect

[9] https://tax.vermont.gov/sites/tax/files/documents/Cell%20Tower%20Decision%20Tree%202017.pdf
[10] https://tax.vermont.gov/sites/tax/files/documents/RP-1295-2024.pdf

because that property will not be set on the Grand List until April 2025, which determines property taxes for fiscal year 2026.

Section 14: Right of Way Fees

Section 14 would require the AOT to charge a tiered annual fee depending on county population for use of state highway right of way (ROW) by communications services providers. Communications Union Districts (CUDs), small communications carriers, "eligible providers" under 30 V.S.A. § 8082(4), and cable television providers with a certificate of public good from PUC would be exempt from the fee. The proposed rate schedule for installations of fiber optic, coaxial cable, and digital subscriber lines is as follows:

	Charge per foot	Charge per mile	Number of Miles of State ROW
Counties with population >100,000	$0.13	$686.40	174.506
Counties with population >25,000 and <100,000	$0.07	$369.60	2367.594
Counties with population <25,000	$0.02	$105.60	166.291

Each wireless communications facility would be assessed a $270 annual fee. Section 14 would also require that AOT provide an itemized report on the charges and payments through this section. Estimating the revenues that the charge would generate is complicated because neither the percent of State ROW utilized by non-exempt providers nor the number of providers operating in each mile of State ROW is known.

As such, JFO can only state that there would be an indeterminate positive impact on annual Transportation Fund revenues. It should be noted that federal law requires that revenues generated from ROW fees on federal-aid highways be dedicated to highway purposes, such as maintenance and upkeep of the ROW.

Sections 15-16: Community Media and Pole Attachment Charges

Section 16 proposes an annual utility pole attachment charge of $15 per attachment paid by communications service providers. Section 16 also proposes to create the Community Media Public Benefit Fund to manage revenues from the charge. Money from the fund would be appropriated to the Secretary of State to provide grants for the operational costs of Access Management Organizations (AMOs), also known as PEG-TV stations. The Vermont Access Network would be responsible for submitting a plan to the Secretary of State that shows the size of subgrants that would be awarded to each AMO. Up to 5% of the annual amount appropriated from the fund could be allocated to the Department of Taxes and the Secretary of State to for administrative costs.

JFO estimates that there are approximately 550,000 eligible pole attachments in the state, which would generate $8.27 million in annual revenue. If all revenues are appropriated, the Department of Taxes and Secretary of State could receive a combined $413,500 annually.

JFO is not able to estimate the additional revenues that would be received by AMOs compared to the current system entirely based on payments outlined in PUC Rule 8.000, which directs cable companies to pay 5% of their gross revenues from "cable services" directly to AMOs for operational costs. Language in Section 16 would allow cable companies to deduct pole attachment charges from these "franchise fee" payments and it is unclear how many pole attachments are held by cable companies versus other communications providers.