

1 Introduced by Committee on Ways and Means

2 Date:

3 Subject: Taxation; excise tax; television services; access management
4 organizations

5 Statement of purpose of bill as introduced: This bill proposes to create a
6 television assessment to help fund community media and other public services.

7 An act relating to establishing a television assessment and community
8 media

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

10 Sec. 1. 32 V.S.A. chapter 247 is added to read:

11 CHAPTER 247. TELEVISION ASSESSMENT

12 § 10601. FINDINGS; PURPOSE

13 (a) The General Assembly finds:

14 (1) In recent years, there has been significant growth of high-bandwidth,
15 entertainment content delivered over communications networks.

16 (2) Substantial public investments, both State and federal, have been
17 made to promote communications network deployment and the adoption of
18 essential services delivered over those networks, such as telecommunications
19 and broadband.

1 (3) Government has long recognized that these networks and services
2 are essential because they provide end users further access to critical services,
3 such as educational, governmental, employment, public safety, and health care
4 services.

5 (b) The purpose of this chapter is to establish a comprehensive statewide
6 mechanism for requiring equitable contributions from cable television
7 companies, satellite television providers, and television streaming providers to
8 support public benefit programs in the communications sector.

9 § 10602. DEFINITIONS

10 As used in this chapter:

11 (1) “Customer” means any person who receives or subscribes to direct
12 broadcast satellite service or video streaming service from a direct broadcast
13 satellite service provider or video streaming service provider and does not
14 further distribute such service in the ordinary course of business.

15 (2) “Direct broadcast satellite service” or “DBS service” means the
16 distribution or broadcasting by satellite of video programming or services
17 directly to receiving equipment located at an end user customer’s premises,
18 including the provision of premium channels, the provision of music or other
19 audio services or channels, and any other service received in connection with
20 the provision of direct broadcast satellite service.

1 (3) “Direct broadcast satellite service provider” or “satellite television
2 provider” means a person who transmits, broadcasts, or otherwise provides
3 direct broadcast satellite service to customers in the State and earns more than
4 \$250,000.00 in gross annual revenues from providing such services to users in
5 the State.

6 (4) “Gross receipts” means all consideration of any kind or nature
7 received by a direct broadcast satellite service provider or video streaming
8 service provider, or an affiliate of such person, in connection with the
9 provision, delivery, or furnishing of direct broadcast satellite service or video
10 streaming service to customers within the State. “Gross receipts” shall not
11 include:

12 (A) revenue not actually received, regardless of whether it is billed,
13 including bad debts;

14 (B) revenue received by an affiliate or other person in exchange for
15 supplying goods and services to an affiliated direct broadcast satellite service
16 provider or affiliated video streaming service provider;

17 (C) refunds, rebates, or discounts made to customers, advertisers, or
18 other persons;

19 (D) revenue from retail telecommunications service as defined in 30
20 V.S.A. § 7501(8);

1 (E) revenue from broadband service as defined in 30 V.S.A.

2 § 8082(2);

3 (F) revenue from the sale of capital assets or surplus equipment not

4 used by the purchaser to receive direct broadcast satellite service or video

5 streaming service from the direct broadcast satellite service provider or video

6 streaming service provider;

7 (G) reimbursements made by programmers to the direct broadcast

8 satellite service provider or video streaming service provider for marketing

9 costs incurred by such service provider for the introduction of new

10 programming;

11 (H) late payment fees collected from customers; or

12 (I) charges, other than charges for DBS services or video streaming

13 services, that are aggregated or bundled with DBS services or video streaming

14 services on a customer’s bill, if the direct DBS provider or video streaming

15 service provider can reasonably and separately identify the charges in its books

16 and records kept in the regular course of business.

17 (5) “Video programming” means programming provided by, or

18 comparable to programming provided by, a television broadcast station

19 including, video programming provided by local networks, national broadcast

20 networks, cable television networks and all forms of pay-per-view or on-

21 demand video entertainment.

1 (6) “Video streaming service” means the distribution or broadcasting of
2 video programming displayed by the viewer for a fee on a subscription basis.
3 The term video streaming service, unless expressly provided otherwise, does
4 not include cable service as defined in 47 U.S.C. § 522(6).

5 (7) “Video streaming service provider” or “television streaming
6 provider” means a person who transmits, broadcasts, or otherwise provides
7 video streaming service to customers in the State and earns more than
8 \$250,000.00 in gross annual revenues from providing such services to users in
9 the State.

10 § 10603. IMPOSITION AND COLLECTION

11 (a) There is imposed an assessment on the provision, delivery, or
12 furnishing of DBS services or video streaming services by DBS service
13 providers or video streaming service providers to customers in the State. DBS
14 service providers and video streaming service providers shall pay an
15 assessment equal to five percent of the provider’s gross receipts derived in or
16 from the provision, delivery, or furnishing of DBS service or video streaming
17 service to customers in the State.

18 (b) Gross receipts derived in or from the provision, delivery, or furnishing
19 of DBS service or video streaming service by DBS service providers or video
20 streaming service providers to customers in the State shall be determined by
21 the customer’s place of primary use of the DBS service or video streaming

1 service and if that location cannot be determined with available information or
2 a reasonable inquiry, shall be determined by the customer’s billing address.

3 (c) Under no circumstances shall DBS providers or video streaming service
4 providers subject to the assessment imposed pursuant to this chapter include
5 the amount of tax on bills as a pass-through to customers. It shall be the
6 responsibility of each DBS service provider and each video streaming service
7 provider subject to the assessment imposed pursuant to this section to pay its
8 required assessment to the State, and providers shall not mislead the customer
9 to think otherwise.

10 (d) The assessment created under this section shall be for each year, or part
11 of each year, that a DBS service provider or video streaming service provider
12 is engaged in the sale of DBS or video streaming services to customers in the
13 State.

14 (1) Every DBS service provider or video streaming service provider
15 subject to tax under this section shall:

16 (A) file, on or before April 15 of each year a return for the year ended
17 on the preceding December 31; and

18 (B) pay the tax due, which return shall state the gross receipts for the
19 period covered by each return.

1 (2) Returns shall be filed with the Commissioner on a form to be
2 furnished by the Commissioner for that purpose and shall contain any other
3 data or information as the Commissioner may require.

4 (3) Notwithstanding subdivisions (1) and (2) of this subsection (d), the
5 Commissioner may require any DBS service provider or video streaming
6 service provider to file an annual return, which shall contain any data specified
7 by the Commissioner, regardless of whether such provider is subject to the
8 assessment under this section.

9 (e) The Commissioner may examine and audit a return required under this
10 section for a period equal to the latter of three years from the date the return
11 was filed or three years from the date the return was required to be filed,
12 however there shall be no limitation if a return is fraudulent. In addition to the
13 authority granted to the Commissioner under chapter 103 of this title, the
14 Commissioner may require every DBS service provider or video streaming
15 service provider subject to tax under this section to keep and preserve records
16 of its business in any form as the Commissioner may require for a period of
17 three years, except that the Commissioner may consent to their destruction
18 within that period or may require that they be kept longer.

19 Sec. 2. 30 V.S.A. chapter 88A is added to read:

20 CHAPTER 88A. COMMUNICATIONS PUBLIC BENEFIT FUND

21 § 7601. COMMUNICATIONS PUBLIC BENEFIT FUND

1 (a) The Communications Public Benefit Fund is created as a special fund
2 within the State Treasury. The Fund shall be composed of all revenue from the
3 assessment on direct broadcast satellite services and video streaming services
4 imposed under 32 V.S.A. § 10603, as well as any other funds so appropriated
5 by the General Assembly and any funds received as grants or gifts and
6 approved according to the provisions of 32 V.S.A. § 5. Unexpended balances
7 shall remain in the Fund from year to year.

8 (b) The General Assembly shall annually appropriate amounts from the
9 Fund to support the programs established in sections 7602 and 7603 of this
10 chapter, including any administrative expenses.

11 § 7602. COMMUNITY MEDIA PROGRAM

12 (a) The Secretary of State shall administer and oversee a grant program to
13 support the operational costs of access media organizations (AMOs).

14 (b) On or before September 1 of each year, the Vermont Access Network
15 shall submit a plan to the Secretary with a schedule of proposed subgrants to
16 AMOs. The plan shall ensure that funding is distributed equitably on a
17 statewide basis and, where necessary, and to the greatest extent practicable,
18 provide for additional capacity and coverage in all State municipalities. If the
19 Secretary finds that the plan meets the requirements of this subsection, the
20 Secretary shall make a single disbursement to the Vermont Access Network on
21 or before October 1 of each year.

1 (c) After receiving its annual grant, the Vermont Access Network shall
2 promptly distribute all of the funds to AMOs pursuant to the plan approved by
3 the Secretary. An AMO that is not in substantial compliance with the annual
4 reporting requirements of Public Utility Commission Rule 8.000 is ineligible
5 for the grant.

6 (d) Notwithstanding 2 V.S.A. § 20(d), on or before December 15 of each
7 year, the Vermont Access Network shall provide the General Assembly a
8 written report describing the distribution of subgrants pursuant to this section
9 and well as a statewide survey of AMO coverage areas and services.

10 (e) The Secretary has the right to inspect the financial documents and
11 physical infrastructure of any AMO that receives funding under this section.

12 Sec. 3. 30 V.S.A. § 7603 is added to read:

13 § 7603. BROADBAND AFFORDABILITY PROGRAM

14 (a) The Commissioner of Public Service, in consultation with the Agency
15 of Human Services, shall establish the Broadband Affordability Program,
16 which shall provide qualifying households with low income discounts on
17 broadband service and connected devices.

18 (b) The Program shall be modeled after the Affordable Connectivity
19 Program administered by the Federal Communications Commission with
20 respect to eligibility and eligibility verification methods.

1 (c) The Program shall offer eligible households a discount of up to \$30.00
2 per month toward internet service, as well as a one-time discount of up to
3 \$100.00 toward the purchase of a laptop, desktop computer, or tablet from
4 participating providers if the household contributes more than \$10.00 and less
5 than \$50.00 toward the purchase price.

6 (d) Notwithstanding 2 V.S.A. § 20(d), on or before December 15 of each
7 year, the Commissioner shall submit a written report to the General Assembly
8 describing Program expenditures, the number of participants in the Program,
9 and any recommendations related to the administration and purposes of the
10 Program.

11 Sec. 4. APPROPRIATION

12 The sum of \$1,100,000.00 is appropriated from the General Fund to the
13 Department of Taxes in fiscal year 2025 for the purpose of implementing the
14 chapter established under Sec. 1. of this act.

15 Sec. 5. EFFECTIVE DATES

16 (a) Notwithstanding 1 V.S.A. § 214, this section and Sec. 1 of this act shall
17 take effect retroactively on January 1, 2024 and apply to taxable years on and
18 after January 1, 2024.

19 (b) Secs. 2 and 3 of this act shall take effect on passage.

20 (c) Sec. 4 (appropriation) shall take effect on July 1, 2024.