

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Ways and Means to which was referred House Bill No.
3 657 entitled “An act relating to the modernization of Vermont’s
4 communications taxes and fees” respectfully reports that it has considered the
5 same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 * * * Sales and Use Tax; Prewritten Computer Software * * *

8 Sec. 1. 32 V.S.A. § 9701(7) is amended to read:

9 (7) “Tangible personal property” means personal property that may be
10 seen, weighed, measured, felt, touched, or in any other manner perceived by
11 the senses. “Tangible personal property” includes electricity, water, gas,
12 steam, and prewritten computer software regardless of the method in which the
13 prewritten computer software is paid for, delivered, or accessed, including
14 remotely, hosted by a vendor or the vendor’s designee, or both.

15 Sec. 2. REPEAL

16 2015 Acts and Resolves No. 51, Sec. G.8 (prewritten software accessed
17 remotely) is repealed.

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

19 Sec. 3. 30 V.S.A. § 7501(a) is amended to read:

20 (a) It is the purpose of this chapter to create a financial structure that will
21 allow every Vermont household to obtain basic telecommunications service at

1 an affordable price; and to finance that structure with a ~~proportional~~ charge on
2 all telecommunications transactions that interact with the public switched
3 network.

4 Sec. 4. 30 V.S.A. § 7523 is amended to read:

5 § 7523. RATE OF CHARGE

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

11 (2) The number of access lines a telecommunications service provider
12 provides a customer shall be deemed equal to the number of inbound or
13 outbound two-way communications by any technology that the customer can
14 maintain at the same time as provisioned by the provider's service the
15 maximum number of access lines that may be active, simultaneously, under the
16 customer's purchased service plan.

17 (3) As used in this section:

18 (A) “Access line” means a wire or wireless connection that provides
19 real-time, two-way voice telecommunications service or interconnected VoIP
20 service to or from any device used by a customer, regardless of technology,
21 that is associated with a 10-digit NPA-NXX number or other unique identifier

1 and with a service location or place of primary use in Vermont and that is
2 capable of accessing the 911 system.

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

5 (C) “Place of primary use” means:

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

9 (I) the residential street address or the primary business street
10 address of the customer; and

11 (II) within the service area of the telecommunications provider
12 with whom the customer contracts for the provision of mobile
13 telecommunications service.

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

18 (4) Vermont Lifeline subscribers are exempt from paying the charge
19 required by this section. A customer enrolled in the federal Lifeline program
20 or the Vermont Lifeline program, or both, is exempt from the charge
21 established by this chapter.

1 (b) ~~Beginning on July 1, 2019, the rate of charge established under~~
2 ~~subsection (a) of this section shall be increased by four tenths of one percent of~~
3 ~~retail telecommunications service, and the monies collected from this increase~~
4 From the monies collected by the Universal Service Charge under this chapter,
5 17 percent shall be transferred to the Vermont Community Broadband Fund
6 established under section 8083 of this title, and up to \$120,000.00 shall be used
7 to fund a Rural Broadband Technical Assistance Specialist whose duties shall
8 include providing outreach, technical assistance, and other support services to
9 communications union districts established pursuant to chapter 82 of this title
10 and other units of government, nonprofit organizations, cooperatives, and for-
11 profit businesses for the purpose of expanding broadband service to unserved
12 and underserved locations. Support services also may include providing
13 business model templates for various approaches, including formation of or
14 partnership with a cooperative, a communications union district, a rural
15 economic development infrastructure district, an electric utility, or a new or
16 existing ~~Internet~~ internet service provider as operator of the network.

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

21 Sec. 5. 30 V.S.A. § 7521(e)(1) is amended to read:

1 (e)(1) Notwithstanding any other provision of law to the contrary,
2 ~~beginning on January 1, 2020, the~~ a Universal Service Charge of 2.4 percent
3 shall be imposed on all retail sales of prepaid wireless telecommunications
4 service subject to the sales and use tax imposed under 32 V.S.A. chapter 233.
5 The charges shall be collected by sellers or marketplace facilitators collecting
6 sales tax pursuant to 32 V.S.A. § 9713 and remitted to the Department of
7 Taxes in the manner provided under 32 V.S.A. chapter 233. Upon receipt of
8 the charges, the Department of Taxes shall have 30 days to remit the funds to
9 the fiscal agent selected under section 7503 of this chapter. The Commissioner
10 of Taxes shall establish registration and payment procedures applicable to the
11 Universal Service Charge imposed under this subsection consistent with the
12 registration and payment procedures that apply to the sales tax imposed on
13 such services and also consistent with the administrative provisions of
14 32 V.S.A. chapter 151, including any enforcement or collection action
15 available for taxes owed pursuant to that chapter.

16 Sec. 6. 30 V.S.A. § 7511 is amended to read:

17 § 7511. DISTRIBUTION GENERALLY

18 (a)(1) As directed by the Commissioner of Public Service, funds collected
19 by the fiscal agent, and interest accruing thereon, shall be distributed as
20 follows:

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

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

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

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

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

11 (6) to support the Connectivity Fund established in section 7516 of this
12 title; ~~and.~~

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

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

20 Sec. 7. 30 V.S.A. § 7513a is added to read:

21 § 7513a. VERMONT 988 SUICIDE AND CRISIS LIFELINE

1 subdivision (10) shall not exclude from the definition of “nonhomestead
2 property” the following real or personal property:

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

7 * * *

8 Sec. 11. 32 V.S.A. § 3602b is added to read:

9 **§ 3602b. COMMUNICATIONS PROPERTY**

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

11 **(b)** Communications property owned by a nonmunicipal communications
12 service provider shall be taxed at appraisal value as defined in section 3481 of
13 this title.

14 **(c)** As used in this section, “communications property” means tangible
15 personal property used to enable the real-time, two-way, electromagnetic
16 transmission of information, such as audio, video, and data, that is so fitted and
17 attached as to be part of a local, state, national, or international
18 communications network, as well as facilities that are part of a cable television
19 system as defined in 30 V.S.A. § 501(2). The term includes wires, cables,
20 conduit, pipes, antennas, poles, wireless towers, machinery, distribution hubs,

1 splitters, switching equipment, routers, servers, power equipment, and any
2 other network equipment.

3 (d)(1) On or before May 1 of each year, the Division of Property Valuation
4 and Review of the Department of Taxes shall provide the listers in each
5 municipality with the valuation of all taxable communications property of any
6 communications service provider situated therein as reported by such provider
7 to the Division.

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

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

15 (4) The valuations provided to the listers pursuant to this section shall be
16 considered along with any other information as may reasonably be required by
17 the listers in determining and fixing the valuations of communications property
18 for the purposes of local taxation.

19 Sec. 12. 32 V.S.A. § 3618(c)(1) is amended to read:

20 (1) “Business personal property” means tangible personal property of a
21 depreciable nature used or held for use in any trade, business, professional

1 practice, transaction, activity, or occupation conducted for profit, including all
2 furniture and fixtures, apparatus, tools, implements, books, machines, boats,
3 construction devices, and all personal property used or intended to be used for
4 the production, processing, fabrication, assembling, handling, or transportation
5 of anything of value, or for the production, transmission, control, or disposition
6 of power, energy, heat, light, water, or waste. “Business personal property”
7 does not include inventory, or goods and chattels so affixed to real property as
8 to have become part thereof, and that are therefore not severable or removable
9 without material injury to the real property, nor does it include poles, lines, and
10 fixtures that are taxable under sections 3620, **3602b**, and 3659 of this title.

11 Sec. 13. 32 V.S.A. § 3622 is added to read:

12 § 3622. COMMUNICATIONS POLES, LINES, AND FIXTURES

13 (a) Communications property, as defined in section 3602b of this
14 subchapter, owned by a nonmunicipal communications service provider shall
15 be taxed at appraisal value as defined by section 3481 of this title. **As used in**
16 this section, “communications service provider” means a person that directly
17 controls communications property by means of ownership, lease agreement, or
18 other contractual arrangement. The term includes incumbent local exchange

1 ~~carriers, competitive local exchange carriers, wireless communications~~
2 ~~providers, cable television providers, and internet service providers.~~

3 ~~(b)(1) On or before May 1 of each year, the Division of Property Valuation~~
4 ~~and Review of the Department of Taxes shall provide the listers in each~~
5 ~~municipality with the valuation of all taxable communications property of any~~
6 ~~communications service provider situated therein as reported by such provider~~
7 ~~to the Division.~~

8 ~~(2) On or before March 31 of each year, each communications service~~
9 ~~provider shall submit to the Division a sworn inventory of all its taxable~~
10 ~~communications property in a form that identifies the valuation of its property~~
11 ~~in each municipality.~~

12 ~~(3) The Division shall prescribe the form of the inventory required under~~
13 ~~subdivision (2) of this subsection and the officer or officers who shall submit~~
14 ~~the sworn inventory.~~

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

19 Sec. 13. 32 V.S.A. § 3659 is amended to read:

20 § 3659. MUNICIPAL LANDS

1 Land and buildings of a municipal corporation, whether acquired by
2 purchase or condemnation and situated outside its territorial limits shall be
3 taxed by the municipality in which such land is situated. Said land shall be set
4 to such municipal corporation in the grand list of the town or city in which
5 such real estate is located at the value fixed in the appraisal next preceding the
6 date of acquisition of such property and taxed on such valuation. The value
7 fixed on such property at each appraisal thereafter shall be the same per acre as
8 the value fixed on similar property in the town or city. Improvements made
9 subsequent to the acquisition of the land shall not be taxed; except that an
10 additional tax not to exceed 75 percent of the appraisal of the land may be
11 levied in lieu of a personal property tax. Electric utility poles, lines, and pole
12 fixtures owned by a municipal utility lying beyond its boundaries shall be
13 taxed at appraisal value as defined in section 3481 of this title.

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

17 * * * State ROW Charge; Communications Providers * * *

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

19 § 26a. DETERMINATION OF RENT TO BE CHARGED FOR LEASING

20 OR LICENSING STATE-OWNED PROPERTY UNDER THE

21 AGENCY'S JURISDICTION

1 (a) Except as otherwise provided by subsection (b) of this section, or as
2 otherwise provided by law, leases or licenses negotiated by the Agency under
3 5 V.S.A. §§ 204 and 3405 and section 26 and subsection 1703(d) of this title
4 ordinarily shall require the payment of fair market value rent, as determined by
5 the prevailing area market prices for comparable space or property. However,
6 the Agency may lease or license State-owned property under its jurisdiction for
7 less than fair market value when the Agency determines that the proposed
8 occupancy or use serves a public purpose or that there exist other relevant
9 factors, such as a prior course of dealing between the parties, that justify
10 setting rent at less than fair market value.

11 (b)(1) Unless otherwise required by federal law, beginning on or before
12 October 1, 2024, the Agency shall annually assess, collect, and deposit in the
13 Transportation Fund a reasonable charge ~~or payment~~ with respect to leases or
14 licenses for access to or use of State-owned rights-of-way by ~~providers of~~
15 ~~broadband or wireless communications facilities or services~~ communications
16 service providers as defined in 32 V.S.A. § 3622 for the installation of
17 communications property as defined in 32 V.S.A. § 3602b. ~~The Agency may~~
18 ~~waive such charge or payment in whole or in part if the provider offers to~~
19 ~~provide comparable value to the State so as to meet the public good as~~
20 ~~determined by the Agency and the Department of Public Service. For the~~
21 ~~purposes of this section, the term “comparable value to the State” shall be~~

1 ~~construed broadly to further the State’s interest in ubiquitous broadband and~~
2 ~~wireless service availability at reasonable cost. Any waiver of charges or~~
3 ~~payments for comparable value to the State granted by the Agency may not~~
4 ~~exceed five years. Thereafter, the Agency may extend any waiver granted for~~
5 ~~an additional period not to exceed five years if the Agency makes affirmative~~
6 ~~written findings demonstrating that the State has received and will continue to~~
7 ~~receive value that is comparable to the value to the provider of the waiver, or it~~
8 ~~may revise the terms of the waiver in order to do so.~~

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

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

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

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

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

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

17 (3) The charge required by this subsection shall not apply to **installations**
18 of communications property owned by:

19 (A) a communications union district;

20 (B) a **small communications carrier as defined in 30 V.S.A.**
21 **§ 8082(10);**

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

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

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

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

19 (e) Notwithstanding 2 V.S.A. § 20(d), beginning on January 1, 2025, and
20 annually thereafter, the Agency shall submit a written report to the General
21 Assembly itemizing all charges and payments collected under this section.

1 * * * Community Media Public Benefit Fund; Pole Attachment Charge * * *

2 Sec. 15. FINDINGS AND INTENT

3 (a) The General Assembly finds:

4 (1) Public, educational, and government (PEG) access is an essential
5 service for Vermont, providing ongoing access to public meetings and
6 emergency information, connecting communities, and preserving local
7 identity.

8 (2) PEG providers, also known as access management organizations
9 (AMOs), provide internet-based services that serve whole communities, not
10 merely those portions covered by cable television systems.

11 (3) AMOs have been funded principally by a surcharge on cable
12 television service, which is paid directly from cable companies to AMOs.
13 AMO funding streams have declined in recent years due to technological
14 changes as well as to consumer preference shifts away from cable
15 programming and towards internet-based streaming services.

16 (b) It is the intent of the General Assembly to affirm the continuing
17 importance of community media services in Vermont by providing a stable and
18 ongoing funding stream for Vermont’s AMOs. Such funding shall be derived
19 from the communications industry through a competitively neutral and
20 nondiscriminatory charge paid by communications providers and imposed on
21 the principal facilities used to support modern communications, which are

1 heavily used by nearly all service providers on the modern network, including
2 wireless service.

3 Sec. 16. 30 V.S.A. chapter 88A is added to read:

4 CHAPTER 88A. COMMUNITY MEDIA PUBLIC BENEFIT FUND

5 § 7601. PURPOSE

6 This chapter establishes a financial structure to provide adequate financial
7 support to Vermont’s access management organizations so that public,
8 educational, and government (PEG) services are broadly available everywhere
9 in the State. It creates an annual utility pole attachment charge on
10 communications service providers to finance that structure.

11 § 7602. DEFINITIONS

12 As used in this chapter:

13 (1) “Access management organization” or “AMO” means a nonprofit
14 entity that is not a part of a cable company and that is designated to receive
15 PEG access support through a cable company and contracted to manage PEG
16 channels and facilities for noncommercial purposes, pursuant to Public Utility
17 Commission Rule 8.000.

18 (2) “Cable company” means a company that operates a cable television
19 system as defined in 30 V.S.A. chapter 13.

20 (3) “Communications facility” means a physical facility, including
21 copper cable, optical fiber, and antennas, that transmits and receives electrical

1 or light signals as part of a local, state, national, or international network used
2 primarily for communications.

3 (4) “Communications service provider” means an entity that directly
4 controls communications facilities by means of ownership, lease agreement, or
5 other arrangement. The term includes incumbent local exchange carriers,
6 competitive local exchange carriers, wireless communications providers, cable
7 television companies, and internet service providers.

8 (5) “Fund” means the Community Media Public Benefit Fund.

9 (6) “Pole attachment” means the physical attachment of a
10 communications facility to a utility pole.

11 (7) “Pole-owning utility” means a company, as defined in
12 subdivision 201(1) of this title, that is subject to regulation by the Public
13 Utility Commission and has an ownership interest in one or more utility poles.

14 (8) “Utility pole” means a structure used to support one or more
15 communications facilities above ground, without regard to ownership and
16 without regard to whether the pole is used to transmit electric power. “Utility
17 pole” does not include a structure outside the public rights-of-way constructed
18 for the sole or primary purpose of supporting wireless antennas or any building
19 on which one or more wireless antennas have been deployed.

20 (9) “Vermont Access Network” means the nonprofit organization that
21 represents Vermont’s access management organizations in matters of mutual

1 concern, including the effective operation and advancement of PEG access
2 throughout the State, and includes any successor organization.

3 § 7603. COMMUNITY MEDIA PUBLIC BENEFIT FUND

4 The Community Media Public Benefit Fund is created as a special fund
5 within the State Treasury. The Fund shall be composed of all receipts from the
6 pole attachment charge imposed in this chapter, as well as any other funds so
7 appropriated by the General Assembly and any funds received as grants or
8 gifts and approved according to the provisions of 32 V.S.A. § 5. Unexpended
9 balances shall remain in the Fund from year to year.

10 § 7604. POLE ATTACHMENT CHARGE

11 (a) Charge imposed. A charge is imposed on each pole attachment in this
12 State that exists on April 1 of each year. The charge is imposed on a
13 communications service provider for each pole attachment owned or controlled
14 by that communications service provider.

15 (b) Multiple attachments. Where multiple communications facilities exist
16 on a single utility pole, one charge is imposed for each attachment point.
17 However, if two or more facilities are attached to a single attachment point,
18 such as over-lashed cables or wires, those facilities are subject to a single
19 charge if and only if all facilities at that attachment point are owned or
20 controlled by a single provider.

1 (c) Rate of charge. The rate of charge shall be \$15.00 per year for each
2 pole attachment.

3 (d) Exemption. The charge does not apply to pole attachments of publicly
4 owned communications facilities.

5 (e) Cable deduction. A cable company may deduct from amounts due
6 under this section any amounts paid to AMOs, as required by Public Utility
7 Commission Rule 8.000, during the previous calendar year. Nothing in this
8 chapter reduces or eliminates the obligation of any cable company to provide
9 funding to AMOs pursuant to State or federal law or rule.

10 § 7605. DISTRIBUTION OF FUNDS

11 (a) The General Assembly shall annually appropriate amounts from the
12 Fund to the Office of the Secretary of State for the purpose of making grants
13 for the operational costs of AMOs pursuant to this section.

14 (b) The Secretary of State shall administer those grants by making a single
15 disbursement to the Vermont Access Network on or before October 1 of each
16 year, beginning in 2024. On or before September 1 of each year, the Vermont
17 Access Network shall submit a plan to the Secretary of State with a schedule of
18 proposed subgrants to AMOs. The distribution under this subsection shall
19 occur only if the Secretary approves that plan.

20 (c) After receiving its annual grant, the Vermont Access Network shall
21 promptly distribute all of the funds to AMOs pursuant to the plan approved by

1 the Secretary. An AMO that is not in substantial compliance with the annual
2 reporting requirements of Public Utility Commission Rule 8.000 is ineligible
3 for the grant.

4 (d) The General Assembly shall annually appropriate amounts from the
5 Fund to the Department of Taxes and the Office of the Secretary of State for
6 administrative expenses incurred under this chapter. The total appropriation to
7 the Department and the Office shall not exceed five percent of the total annual
8 appropriation under this section.

9 § 7606. PAYMENT AND REPORTING

10 (a) Beginning on July 1, 2024, and annually thereafter, pole attachment
11 charges shall be paid to the Department of Taxes, along with a return that
12 describes the number of pole attachments that the communications service
13 provider owned or controlled in the State on April 1 of the same calendar year.

14 (b) Within 60 days following any request from the Commissioner of Taxes,
15 a pole-owning utility shall report the number of utility poles it owns or controls
16 and submit an inventory of the attachments to those poles, classified according
17 to the communications service provider who owns or controls the attached
18 facilities.

19 § 7607. RULEMAKING

20 The Commissioner of Taxes may adopt rules to the extent necessary to
21 effectuate the purpose of this chapter. No rules or rulemaking process shall in

1 any way delay the effective date of the pole attachment charge or the annual
2 payment of such charge.

3 * * * Effective Dates * * *

4 Sec. 17. EFFECTIVE DATES

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

6 (1) Secs. 1–2 (prewritten computer software) shall take effect on June 1,
7 2025.

8 (2) Secs. 3–7 (VUSF contribution method; 988 funding) shall take effect
9 on July 1, 2025.

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13 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE