

1 H.657

2 Introduced by Representatives Sims of Craftsbury, Anthony of Barre City, and

3 Masland of Thetford

4 Referred to Committee on

5 Date:

6 Subject: Communications; taxes; fees

7 Statement of purpose of bill as introduced: This bill proposes to modernize
8 Vermont's communications taxes and fees to be more competitively neutral
9 and to provide a financial structure that equitably and sustainably finances
10 public benefits related to communications networks in the State.

11 An act relating to the modernization of Vermont's communications taxes
12 and fees

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

14 ~~*** Sales and Use Tax, Prewritten Computer Software ***~~

15 Sec. 1. 32 V.S.A. § 9701(60) is added to read:

16 (60) "Vendor-hosted prewritten computer software" means prewritten
17 computer software that is accessed through the internet or a vendor-hosted
18 server or platform, including where possession of the software is maintained
19 by the vendor or a third party, regardless of.

1 ~~(A) the method of delivery or transfer, including whether any~~
2 ~~downloading occurs;~~

3 ~~(B) whether the access is permanent or temporary; and~~

4 ~~(C) whether the charge for the right of access and for the service is~~
5 ~~on a per use, per user, per license, subscription, or some other basis.~~

6 Sec. 2. 32 V.S.A. § 9771 is amended to read:

7 § 9771. IMPOSITION OF SALES TAX

8 Except as otherwise provided in this chapter, there is imposed a tax on retail
9 sales in this State. The tax shall be paid at the rate of six percent of the sales
10 price charged for but in no case shall any one transaction be taxed under more
11 than one of the following:

12 * * *

13 (7) tangible personal property to an advertising agency for its use in
14 providing advertising services or creating advertising materials for transfer in
15 conjunction with the delivery of advertising service; or

16 (8) specified digital products transferred electronically to an end user
17 regardless of whether for permanent use or less than permanent use and
18 regardless of whether or not conditioned upon continued payment from the
19 purchaser, or

1 ~~(9) vendor-hosted prewritten computer software and the right to access~~
2 ~~and use vendor-hosted prewritten computer software to perform data~~
3 ~~processing services.~~

4 Sec. 3. 32 U.S.A. § 9773 is amended to read:

5 § 9773. IMPOSITION OF COMPENSATING USE TAX

6 Unless property or telecommunications service has already been or will be
7 subject to the sales tax under this chapter, there is imposed on every person a
8 use tax at the rate of six percent for the use within this State, except as
9 otherwise exempted under this chapter:

10 * * *

11 (4) specified digital products transferred electronically to an end user;
12 and

13 (5) telecommunications service except coin-operated telephone service,
14 private telephone service, paging service, private communications service, or
15 value-added non-voice data service; and

16 (6) vendor-hosted prewritten computer software and the right to access
17 and use vendor-hosted prewritten computer software to perform data
18 processing services.

19 Sec. 4. REPEAL

20 2015 Acts and Resolves No. 51, Sec. G.8 (prewritten software accessed
21 remotely) is repealed.

1 *** VIUSE; Per Line Contribution Method; Vermont 088 ***

2 Sec. 5. 30 V.S.A. § 7501(a) is amended to read:

3 (a) It is the purpose of this chapter to create a financial structure that will
4 allow every Vermont household to obtain basic telecommunications service at
5 an affordable price, and to finance that structure with a ~~proportional~~ charge on
6 all telecommunications transactions that interact with the public switched
7 network.

8 Sec. 6. 30 V.S.A. § 7523 is amended to read:

9 § 7523. RATE OF CHARGE

10 (a)(1) ~~Beginning on July 1, 2014, the~~ Except as provided in subsection
11 7521(e) of this chapter, which pertains to prepaid wireless telecommunications
12 service, and in subdivision (3) of this subsection, the monthly rate of charge
13 shall be two percent of retail telecommunications service. \$0.70 for each retail
14 access line in service. The number of access lines a telecommunications
15 service provider provides a customer shall be deemed equal to the number of
16 inbound or outbound two-way communications by any technology that the
17 customer can maintain at the same time as provisioned by the provider's
18 service.

19 (2) As used in this section:

20 (A) “Access line” means a wire or wireless connection that provides
21 real-time, two-way voice telecommunications service or interconnected voice

1 ~~service to or from any device used by a customer, regardless of technology,~~
2 that is associated with a 10-digit NPA-NXX number or other unique identifier
3 and with a service location or place of primary use in Vermont and that is
4 capable of accessing the 911 system.

5 (B) “Interconnected VoIP service” means service that:

6 (i) enables real-time, two-way voice communication that
7 originates from and terminates to the customer’s location using internet
8 protocol or any successor protocol;

9 (ii) requires a broadband connection from the customer’s location;

10 (iii) permits end users, generally, to receive calls that originate on
11 the public switched network and to terminate calls to the public switched
12 network; and

13 (iv) requires internet protocol-compatible customer premises
14 equipment.

15 (C) “Place of primary use” means:

16 (i) for mobile telecommunications service, the street address
17 where the customer’s use of the mobile telecommunications service primarily
18 occurs that must be:

19 (I) the residential street address or the primary business street
20 address of the customer, and

1 ~~(II) within the service area of the telecommunications provider~~
2 with whom the customer contracts for the provision of mobile
3 telecommunications service;

4 (ii) for interconnected VoIP service, the street address where the customer's
5 use of interconnected VoIP service primarily occurs, or a reasonable proxy as
6 determined by the interconnected VoIP service provider, such as the
7 customer's registered location for 911 purposes.

8 (3) Vermont Lifeline subscribers are exempt from paying the charge
9 required by this section.

10 (b) ~~Beginning on July 1, 2019, the rate of charge established under~~
11 ~~subsection (a) of this section shall be increased by four-tenths of one percent~~
12 ~~of retail telecommunications service, and the monies collected from this~~
13 ~~increase~~ From the monies collected by the Universal Service Charge under this
14 chapter, 17 percent shall be transferred to the Vermont Community Broadband
15 Fund established under section 8083 of this title, and up to \$120,000.00 shall
16 be used to fund a Rural Broadband Technical Assistance Specialist whose
17 duties shall include providing outreach, technical assistance, and other support
18 services to communications union districts established pursuant to chapter 82
19 of this title and other units of government, nonprofit organizations,
20 cooperatives, and for-profit businesses for the purpose of expanding broadband
21 service to unserved and underserved locations. Support services also may

1 ~~include providing business model templates for various approaches, including~~
2 formation of or partnership with a cooperative, a communications union
3 district, a rural economic development infrastructure district, an electric utility,
4 or a new or existing ~~Internet~~ internet service provider as operator of the
5 network.

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

10 Sec. 7. 30 V.S.A. § 7521(e)(1) is amended to read:

11 (e)(1) Notwithstanding any other provision of law to the contrary,
12 ~~beginning on January 1, 2020, the a~~ Universal Service Charge of 2.4 percent
13 shall be imposed on all retail sales of prepaid wireless telecommunications
14 service subject to the sales and use tax imposed under 32 V.S.A. chapter 233.
15 The charges shall be collected by sellers or marketplace facilitators collecting
16 sales tax pursuant to 32 V.S.A. § 9713 and remitted to the Department of Taxes
17 in the manner provided under 32 V.S.A. chapter 233. Upon receipt of the
18 charges, the Department of Taxes shall have 30 days to remit the funds to the
19 fiscal agent selected under section 7503 of this chapter. The Commissioner of
20 Taxes shall establish registration and payment procedures applicable to the
21 ~~Universal Service Charge imposed under this subsection consistent with the~~

1 ~~registration and payment procedures that apply to the sales tax imposed on~~

2 such services and also consistent with the administrative provisions of
3 32 V.S.A. chapter 151, including any enforcement or collection action
4 available for taxes owed pursuant to that chapter.

5 Sec. 8. 30 V.S.A. § 7511 is amended to read:

6 § 7511. DISTRIBUTION GENERALLY

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

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

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

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

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

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

20 (6) to support the Connectivity Fund established in section 7516 of
21 this title; and.

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

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

8 Sec. 9. 30 V.S.A. § 7513a is added to read:

9 § 7513a. VERMONT 988 SUICIDE AND CRISIS LIFELINE

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

14 * * * Communications Property; Statewide Assessment * * *

15 Sec. 10. INTENT

16 It is the intent of this act to impose an assessment on communications
17 property that promotes equity and administrative efficiency. The specific
18 property valuation method enacted should reflect to the greatest extent
19 practicable the recommendations of the Department of Taxes and industry
20 stakeholders, and the best interests of the public.

1 ~~Sec. 10a-32 V.S.A., chapter 211, subchapter 6 is amended to read:~~

2 ~~Subchapter 6. Telephone Companies Communications Service Providers~~

3 ~~§ 8521. IMPOSITION AND RATE OF TAX~~

4 ~~(a) There is hereby assessed, upon each person or corporation owning or~~
5 ~~operating a telephone line or business within the State, at tax A~~
6 ~~communications service provider doing business in this State shall pay a tax to~~
7 ~~the State equal to 2.37 percent of net book fair market value as of the~~
8 ~~preceding December 31 of all personal communications property of the~~
9 ~~taxpayer located within the State. The tax shall be paid to the Commissioner~~
10 ~~in equal monthly installments on or before the 25th day of each month of each~~
11 ~~taxable year.~~

12 ~~(b) For tax years beginning after July 1, 1983, “a person or corporation~~
13 ~~owning or operating a telephone line or business,” as used in this chapter, shall~~
14 ~~not include a person or corporation that is engaged in the resale of telephone~~
15 ~~transmission capacity but does not own or operate any telephone lines or~~
16 ~~transmission facilities within the State, but such person or corporation~~
17 ~~engaging in the resale of telephone transmission capacity shall be subject to~~
18 ~~income taxation under chapter 151 of this title As used in this subchapter:~~

19 ~~(1) “Communications property” means:~~

20 ~~(A) Tangible facilities that are used to enable the real-time, two-way,~~
21 ~~electromagnetic transmission of information, such as audio, video, and data,~~

1 ~~and that is part of a local, state, national, or international communications~~
2 ~~network, as well as tangible facilities that are part of a cable television system~~
3 ~~as defined in 30 V.S.A. § 501(2). The term includes wires, cables, conduit,~~
4 ~~pipes, antennas, poles, wireless towers, machinery, distribution hubs, splitters,~~
5 ~~switching equipment, routers, servers, power equipment, and any other~~
6 ~~network equipment.~~

7 ~~(B) Any lease, license, permit, or other contractual arrangement~~
8 ~~pursuant to which a communications service provider is authorized to locate~~
9 ~~tangible communications property on public or private property in Vermont.~~

10 ~~(2) "Communications service provider" means a person that directly~~
11 ~~controls communications property by means of ownership, lease agreement, or~~
12 ~~other contractual arrangement. The term includes incumbent local exchange~~
13 ~~carriers, competitive local exchange carriers, wireless communications~~
14 ~~providers, cable television providers, and internet service providers. The term~~
15 ~~does not include an electric distribution or transmission utility, a person~~
16 ~~engaged in the resale of voice or broadband internet access service who does~~
17 ~~not directly own or control communications infrastructure in this State, or a~~
18 ~~State or municipal entity.~~

19 ~~(c) The tax imposed by this section shall be in addition to any other taxes~~
20 ~~imposed by law, including the income tax imposed under chapter 151 of this~~
21 ~~title.~~

1 ~~(d) All the administrative provisions of chapter 151 of this title, including~~
2 those relating to the collection and enforcement of the income tax by the
3 Commissioner, shall apply to the tax imposed by this chapter.

4 ~~(e) There is hereby assessed, upon each person or corporation owning or~~
5 ~~operating a telephone line or business that received in calendar year 1990 at~~
6 ~~least \$20 million in annual gross operating revenues within the State, a tax on~~
7 ~~its entire gross operating revenues from the State for the periods from July 1,~~
8 ~~1991 through June 30, 1992. The tax for each separate fiscal year shall be~~
9 ~~determined by subtracting from an amount equal to 5 1/4 percent of the~~
10 ~~taxpayer's gross operating revenues from the State for the fiscal year ending~~
11 ~~June 30, 1992, the total amount of tax paid by such persons or corporations~~
12 ~~under subsection (a) of this section during the fiscal year ending June 30,~~
13 ~~1992, the amount of tax paid by such persons or corporations under chapter~~
14 ~~151 of this title during the fiscal year ending June 30, 1992. The tax imposed~~
15 ~~by this subsection shall be paid to the Commissioner on or before June 30 of~~
16 ~~each year. The tax imposed by this subsection shall expire June 30, 1992.~~

17 ~~(f) When personal property is transferred during the year from a person or~~
18 ~~corporation subject to a tax imposed by this subchapter to another person or~~
19 ~~corporation that operates or will operate a telephone communications line or~~
20 ~~business in the State.~~

1 ~~(1) for months beginning after the date of transfer, the transferee shall~~
2 include the ~~net book~~ fair market value of the transferred property as of the date
3 of transfer in the calculation of the tax due under subsection (a) of this section
4 and the transferor shall exclude such value from its calculation of its tax under
5 subsection (a); and

6 (2) for the month during which the transfer occurs, the transferor shall
7 include the ~~net book~~ fair market value of the transferred property as of the
8 preceding December 31 multiplied by the number of days during the month it
9 owned the property and divided by the total number of days in the month, and
10 the transferee shall include the ~~net book~~ fair market value of the property as of
11 the date of transfer multiplied by the number of days during the month it
12 owned the property divided by the number of days in the month.

13 § 8522. ALTERNATIVE TAX

14 (a) A person ~~or corporation~~ owning or operating a telephone line or
15 business that received in the preceding taxable year less than \$50 million in
16 annual gross operating revenues within the State may, in lieu of the tax
17 imposed in section 8521 of this title and any income tax imposed under
18 chapter 151 of this title, elect to pay to the State a tax equal to the percentage
19 as set forth herein of its entire gross operating revenues from its operations
20 within the State for the fiscal year ending June 30. Where the gross operating
21 revenues during the quarter exceed \$250,000 and do not exceed \$1,250,000, the

1 ~~tax shall be $2\frac{1}{4}$ 2.25 percent; exceed \$1,250.00 and do not exceed \$2,500.00,~~
2 the tax shall be ~~$2\frac{1}{2}$ 2.5 percent; exceed \$2,500.00, and do not exceed~~
3 \$5,000.00, the tax shall be ~~$2\frac{3}{4}$ 2.75 percent; exceed \$5,000.00 and do not~~
4 exceed \$10,000.00, the tax shall be 3 percent; and the rate of tax shall be
5 increased ~~$\frac{1}{4}$ 0.25 of 1 percent for each additional \$5,000.00 or fractional part~~
6 thereof of such gross operating revenue. However, the rate shall in no event
7 exceed ~~$5\frac{1}{4}$ 5.25 percent of the gross operating revenues.~~

8 (b) The tax imposed by this section shall be paid to the Commissioner ~~no~~
9 not later than 25 days following the last day of the third, sixth, ninth, and 12th
10 month of each taxable year.

11 (c) For any taxable year, a taxpayer shall give notice of its election to pay
12 the tax imposed by this section by filing a quarterly gross receipts tax return ~~no~~
13 not later than 25 days following the last day of the third month of the taxable
14 year. No election to pay the tax imposed by this section shall be made by a
15 taxpayer that did not make the election in the previous year.

16 * * * One Percent Cable Gross Revenue Charge; AMO Capital Costs * * *

17 Sec. 11. 30 V.S.A. § 504 is amended to read:

18 § 504. CERTIFICATES OF PUBLIC GOOD

19 (a) Certificates of public good granted under this chapter shall be for a
20 ~~period of 11 years.~~

1 ~~(b) Issuance of a certificate shall be after opportunity for hearing and~~
2 findings by the Commission that the applicant has complied or will comply
3 with requirements adopted by the Commission to ensure that the system
4 provides:

5 (1) designation of adequate channel capacity and appropriate facilities
6 for public, educational, or governmental use;

7 (2) adequate and technically sound facilities and equipment, and signal
8 quality;

9 (3) a reasonably broad range of public, educational, and governmental
10 programming;

11 (4) the prohibition of discrimination among customers of basic service;
12 and

13 (5) basic service in a competitive market, and if a competitive market
14 does not exist, that the system provides basic service at reasonable rates
15 determined in accordance with section 218 of this title; and

16 (6) distribution of one percent of the company's gross revenue to the
17 Secretary of State to support the capital expenditures of the State's access
18 media organizations, pursuant to an annual capital expenditure plan prepared
19 by the Vermont Access Network and approved by the Secretary of State

20 (c) In addition to the requirements set forth in subsection (b) of this
21 section, the Commission shall ensure that the system provides or utilizes.

1 ~~(1) a reasonable quality of service for basic, premium, or otherwise,~~
2 having regard to available technology, subscriber interest, and cost;

3 (2) construction, including installation, which conforms to all applicable
4 State and federal laws and regulations and the National Electric Safety Code;

5 (3) a competent staff sufficient to provide adequate and prompt service
6 and to respond quickly and comprehensively to customer and Department
7 complaints and problems;

8 (4) unless waived by the Commission, an office that shall be open
9 during usual business hours, and a listed, toll-free telephone number so that
10 complaints and requests for repairs or adjustments may be received; and

11 (5) reasonable rules and policies for line extensions, disconnections,
12 customer deposits, and billing practices.

13 (d) A certificate granted to a company shall represent nonexclusive
14 authority of that company to build and operate a cable television system to
15 serve customers only within specified geographical boundaries. Extension of
16 service beyond those boundaries may be made pursuant to the criteria in
17 section 504 of this title, and the procedures in section 231 of this title.

18 Sec. 12. INTENT; APPLICATION

19 It is the intent of the General Assembly that the one percent gross revenue
20 charge applicable to cable companies under Sec. 11 of this act is in addition to
21 the five percent franchise fee currently distributed for the operational costs of

1 ~~the State's access media organizations, notwithstanding any law or rule to the~~
2 contrary. The Public Utility Commission shall ensure the terms and conditions
3 of each cable company's existing certificate of public good are amended on or
4 before October 1, 2024 to reflect the requirements of this section and Sec. 11
5 of this act.

6 * * * State ROW Charge; Communications Providers * * *

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

8 § 26a. DETERMINATION OF RENT TO BE CHARGED FOR LEASING
9 OR LICENSING STATE OWNED PROPERTY UNDER THE
10 AGENCY'S JURISDICTION

11 (a) Except as otherwise provided by subsection (b) of this section, or as
12 otherwise provided by law, leases or licenses negotiated by the Agency under
13 5 V.S.A. §§ 204 and 3405 and section 26 and subsection 1703(d) of this title
14 ordinarily shall require the payment of fair market value rent, as determined by
15 the prevailing area market prices for comparable space or property. However,
16 the Agency may lease or license State-owned property under its jurisdiction
17 for less than fair market value when the Agency determines that the proposed
18 occupancy or use serves a public purpose or that there exist other relevant
19 factors, such as a prior course of dealing between the parties, that justify
20 ~~setting rent at less than fair market value.~~

1 ~~(b) Unless otherwise required by federal law, beginning on or before~~
2 ~~October 1, 2024, the Agency shall assess, collect, and deposit in the~~
3 ~~Transportation Fund a reasonable charge or payment with respect to leases or~~
4 ~~licenses for access to or use of State-owned rights-of-way by providers of~~
5 ~~broadband or wireless communications facilities or services. The Agency may~~
6 ~~waive such charge or payment in whole or in part if the provider offers to~~
7 ~~provide comparable value to the State so as to meet the public good as~~
8 ~~determined by the Agency and the Department of Public Service. For the~~
9 ~~purposes of this section, the term “comparable value to the State” shall be~~
10 ~~construed broadly to further the State’s interest in ubiquitous broadband and~~
11 ~~wireless service availability at reasonable cost. Any waiver of charges or~~
12 ~~payments for comparable value to the State granted by the Agency may not~~
13 ~~exceed five years. Thereafter, the Agency may extend any waiver granted for~~
14 ~~an additional period not to exceed five years if the Agency makes affirmative~~
15 ~~written findings demonstrating that the State has received and will continue to~~
16 ~~receive value that is comparable to the value to the provider of the waiver, or it~~
17 ~~may revise the terms of the waiver in order to do so. The charge or payment~~
18 ~~shall not apply to a communications union district or to an internet service~~
19 ~~provider that qualifies as an “eligible provider” under 30 V.S.A. § 8082(4) if~~
20 ~~the lease or license for access to or use of State-owned rights of way is part of~~

1 ~~a “universal service plan” as defined in 30 V.S.A. § 8082(12), as certified by~~
2 ~~the Vermont Community Broadband Board.~~

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

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

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

16 * * * Effective Dates * * *

17 Sec. 14. EFFECTIVE DATES

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

19 (1) Secs. 1–4 (prewritten computer software) shall take effect on June 1,
20 2025.

1
2

~~(2) Secs. 5, 9 (VUSF contribution method; 988 funding) shall take
effect on January 1, 2025.~~

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

Sec. 1. 30 V.S.A. § 7501 is amended to read:

§ 7501. PURPOSE; DEFINITIONS

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

(b) As used in this chapter:

** * **

(8) “Telecommunications service” means the transmission of any real-time, interactive electromagnetic communications that passes through the public switched network. The term includes transmission of voice, image, data, and any other information, by means of wire, electric conductor cable, optic fiber, microwave, radio wave, or any combinations of such media, and the leasing of any such service.

(A) Telecommunications service includes:

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

(ii) toll telephone service;

(iii) directory assistance;

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

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

* * *

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

§ 7521. CHARGE IMPOSED; WHOLESAL EXEMPTION

(a) A Universal Service Charge is imposed on all retail telecommunications service provided to a Vermont address. Where the location of a service and the location receiving the bill differ, the location of the service shall be used to determine whether the Charge applies. The Charge is imposed on the person purchasing the service, but shall be collected by the telecommunications service provider. ~~Each~~ As applicable, each telecommunications service provider shall include in its tariffs filed at the Public Utility Commission a description of its billing procedures for the Universal Service Charge.

* * *

(c) In the case of mobile telecommunications service, the Universal Service Charge is imposed when the customer's place of primary use is in Vermont.

The As used in this subsection, the terms “customer;” and “place of primary use;” and “mobile telecommunications service” have the meanings given in 4 U.S.C. § 124. All provisions of 32 V.S.A. § 9782 shall apply to the imposition of the Universal Service Charge under this section.

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

* * *

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

§ 7523. RATE OF CHARGE

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

(2) The number of access lines a telecommunications service provider provides a customer shall be deemed equal to the number of inbound or

outbound, whichever is greater, two-way communications by any technology that the customer can maintain at the same time as provisioned by the provider's service.

(3) As used in this section, "access line" means a wire or wireless connection that provides voice telecommunications service to or from any device used by a customer, regardless of technology, that is associated with a 10-digit NPA-NXX number or other unique identifier and with a service location or place of primary use in Vermont and that is capable of accessing the 911 system.

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

(b) ~~Beginning on July 1, 2019, the rate of charge established under subsection (a) of this section shall be increased by four-tenths of one percent of retail telecommunications service, and the monies collected from this increase~~ From the monies collected by the Universal Service Charge under this chapter, 17 percent shall be transferred to the Vermont Community Broadband Fund established under section 8083 of this title, and up to \$120,000.00 shall be used to fund a Rural Broadband Technical Assistance Specialist whose duties shall include providing outreach, technical assistance, and other support services to communications union districts established pursuant to chapter 82

of this title and other units of government, nonprofit organizations, cooperatives, and for-profit businesses for the purpose of expanding broadband service to unserved and underserved locations. Support services also may include providing business model templates for various approaches, including formation of or partnership with a cooperative, a communications union district, a rural economic development infrastructure district, an electric utility, or a new or existing ~~Internet~~ internet service provider as operator of the network.

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

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

(e)(1) Notwithstanding any other provision of law to the contrary, ~~beginning on January 1, 2020, the~~ a Universal Service Charge of 2.4 percent shall be imposed on all retail sales of prepaid wireless telecommunications service subject to the sales and use tax imposed under 32 V.S.A. chapter 233. The charges shall be collected by sellers or marketplace facilitators collecting sales tax pursuant to 32 V.S.A. § 9713 and remitted to the Department of Taxes in the manner provided under 32 V.S.A. chapter 233. Upon receipt of the charges, the Department of Taxes shall have 30 days to remit the funds to the

fiscal agent selected under section 7503 of this chapter. The Commissioner of Taxes shall establish registration and payment procedures applicable to the Universal Service Charge imposed under this subsection consistent with the registration and payment procedures that apply to the sales tax imposed on such services and also consistent with the administrative provisions of 32 V.S.A. chapter 151, including any enforcement or collection action available for taxes owed pursuant to that chapter.

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

§ 7511. DISTRIBUTION GENERALLY

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

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

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

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

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

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

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

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

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

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

~~§ 7513a. VERMONT 988 SUICIDE AND CRISIS LIFELINE~~

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

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

~~Sec. 7. TELEPHONE TAX; REPEAL; TRANSITION~~

~~(a) 32 V.S.A. § 8521 (telephone personal property tax) is repealed on July 1, 2025. The final monthly installment payment of the telephone personal~~

property tax under 32 V.S.A. § 8521 levied on the net book value of the taxpayer's personal property as of December 31, 2024 shall be due on or before July 25, 2025.

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

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

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

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

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

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

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

** * **

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

** * **

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

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

** * **

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

§ 3602b. COMMUNICATIONS PROPERTY

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

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

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

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

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

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

(4) The valuations provided to the listers pursuant to this section shall be used by the listers in determining and fixing the valuations of communications property for the purposes of property taxation.

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

(1) “Business personal property” means tangible personal property of a depreciable nature used or held for use in any trade, business, professional practice, transaction, activity, or occupation conducted for profit, including all furniture and fixtures, apparatus, tools, implements, books, machines, boats, construction devices, and all personal property used or intended to be used for the production, processing, fabrication, assembling, handling, or transportation of anything of value, or for the production, transmission, control, or disposition of power, energy, heat, light, water, or waste. “Business personal property” does not include inventory, or goods and chattels so affixed to real property as to have become part thereof, and that are therefore not severable or removable without material injury to the real property, nor does it include poles, lines, and fixtures that are taxable under sections 3620 and 3659 of this title, nor does it include communications property taxable under section 3602b of this title.

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

§ 3659. MUNICIPAL LANDS

Land and buildings of a municipal corporation, whether acquired by purchase or condemnation and situated outside its territorial limits shall be taxed by the municipality in which such land is situated. Said land shall be set to such municipal corporation in the grand list of the town or city in which such real estate is located at the value fixed in the appraisal next preceding the date of acquisition of such property and taxed on such valuation. The value fixed on such property at each appraisal thereafter shall be the same per acre as the value fixed on similar property in the town or city. Improvements made subsequent to the acquisition of the land shall not be taxed; except that an additional tax not to exceed 75 percent of the appraisal of the land may be levied in lieu of a personal property tax. Electric utility poles, lines, and pole fixtures owned by a municipal utility lying beyond its boundaries shall be taxed at appraisal value as defined in section 3481 of this title. Communications property, as defined in section 3602b of this title, owned by a municipality lying beyond its boundaries shall be taxed at appraisal value as defined in section 3481 of this title.

~~§ 13. FISCAL YEAR 2025, ONE TIME APPROPRIATION,~~

~~VALUATION MODEL~~

~~*In fiscal year 2025, \$150,000.00 shall be appropriated from the General Fund to the Division of Property Valuation and Review of the Department of*~~

~~Taxes to fund the creation of a property valuation model for communications
property.~~

*Sec. 13. ONE-TIME APPROPRIATION FROM THE PILOT SPECIAL
FUND; VALUATION MODEL*

*Notwithstanding 32 V.S.A. § 3709(a), the sum of \$150,000.00 is
appropriated from the PILOT Special Fund to the Division of Property
Valuation and Review of the Department of Taxes in fiscal year 2025 for the
purpose of creating a property valuation model for communications property.*

** * * State Highway ROW; Leases and Licenses; Communications
Property * * **

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

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

*(a) Except as otherwise provided by subsection (b) of this section, or as
otherwise provided by law, leases or licenses negotiated by the Agency under
5 V.S.A. §§ 204 and 3405 and section 26 and subsection 1703(d) of this title
ordinarily shall require the payment of fair market value rent, as determined by
the prevailing area market prices for comparable space or property. However,
the Agency may lease or license State-owned property under its jurisdiction for
less than fair market value when the Agency determines that the proposed*

occupancy or use serves a public purpose or that there exist other relevant factors, such as a prior course of dealing between the parties, that justify setting rent at less than fair market value.

(b)(1) Unless Notwithstanding any other provision of law to the contrary and unless otherwise required by federal law, beginning on or before July 1, 2025, the Agency shall annually assess, collect, and deposit in the Transportation Fund a reasonable charge or payment with respect to leases or licenses for access to or use of State-owned rights-of-way by providers of broadband or wireless communications facilities or services communications service providers for communications property as defined in 32 V.S.A. § 3602b. The Agency may waive such charge or payment in whole or in part if the provider offers to provide comparable value to the State so as to meet the public good as determined by the Agency and the Department of Public Service. For the purposes of this section, the term “comparable value to the State” shall be construed broadly to further the State’s interest in ubiquitous broadband and wireless service availability at reasonable cost. Any waiver of charges or payments for comparable value to the State granted by the Agency may not exceed five years. Thereafter, the Agency may extend any waiver granted for an additional period not to exceed five years if the Agency makes affirmative written findings demonstrating that the State has received and will

~~continue to receive value that is comparable to the value to the provider of the waiver, or it may revise the terms of the waiver in order to do so.~~

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

(A) \$270.00 for each small wireless facility, as defined in 47 C.F.R.

§ 1.6002(l), as may be amended.

(B) A per-linear-foot fee for ~~digital subscriber line~~ twisted-pair cable, coaxial cable, and fiber optic cable, as follows:

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

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

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

(C) All other communications property shall be subject to a fair, reasonable, and nondiscriminatory fee schedule established by the Secretary of Transportation.

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

(A) a communications union district;

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

(C) an internet service provider that qualifies as an eligible provider under 30 V.S.A. § 8082(4), provided the lease or license for access to or use of

State-owned rights-of-way is part of a universal service plan as defined in 30 V.S.A. § 8082(12), as certified by the Vermont Community Broadband Board;

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

(E) an electric transmission or distribution utility.

(4) The Secretary may adjust the fees prescribed in this section to account for inflationary changes as measured by the Consumer Price Index.

(5) The Secretary may propose for approval by the General Assembly standards and procedures for waiving the fees required by this subsection.

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

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

(e) Beginning on or before January 1, 2025 and annually thereafter, each communications provider subject to subsection (b) of this section shall provide to the Secretary of Transportation a detailed inventory of all property in the State-owned rights-of-way. The inventory shall be submitted in a form and manner prescribed by the Secretary of Transportation consistent with the purpose of this section. The Secretary shall conduct routine audits to determine the accuracy of the information submitted pursuant to this subsection.

(f) The inventories required by subsection (e) of this section are exempt from public inspection and copying under the Public Records Act and shall be kept confidential. However, they may be shared with other State agencies, boards, or departments, such as the Department of Taxes, the Agency of Digital Services, the Department of Public Service, the Public Utility Commission, the Department of Public Safety, and the Vermont State Auditor for regulatory purposes. Likewise, such other agencies, boards, and departments of State government shall assist and cooperate with the Secretary of Transportation and shall make available information and data as needed to assist the Secretary in carrying out the Secretary's duties. The Secretary of Administration shall establish protocols and agreements for interagency cooperation and assistance pursuant to this subsection. Nothing in this subsection shall be construed to waive any privilege or protection otherwise

afforded data and information under an exemption to the Public Records Act or under any other State or federal law due solely to the fact that the information or data is shared pursuant to this subsection.

(g) Notwithstanding 2 V.S.A. § 20(d), beginning on January 1, 2026 and annually thereafter, the Secretary shall submit a written report to the General Assembly itemizing all charges and payments collected under this section, as well as an aggregated statewide inventory of the communications property described in subsection (e) of this section.

~~State Highway ROW, Leases, Licenses, Communications Providers and~~

~~Property * * *~~

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

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

~~(a) Except as otherwise provided by subsection (b) of this section, or as otherwise provided by law, leases or licenses negotiated by the Agency under 5 V.S.A. §§ 204 and 3405 and section 26 and subsection 1703(d) of this title ordinarily shall require the payment of fair market value rent, as determined by the prevailing area market prices for comparable space or property. However, the Agency may lease or license State-owned property under its jurisdiction for less than fair market value when the Agency determines that the proposed~~

~~occupancy or use serves a public purpose, or that there exist other relevant factors, such as a prior course of dealing between the parties, that justify setting rent at less than fair market value.~~

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

~~continue to receive value that is comparable to the value to the provider of the
waiver, or it may revise the terms of the waiver in order to do so:~~

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

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

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

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

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

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

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

~~(A) a communications union district;~~

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

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

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

~~(4) The Secretary may adjust the fees prescribed in this section to account for inflationary changes as measured by the Consumer Price Index.~~

~~(5) The Secretary may propose for approval by the General Assembly standards and procedures for waiving the fees required by this subsection.~~

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

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

~~(e) Beginning on or before January 1, 2025, and annually thereafter, the holder of a lease or license pursuant to subsection (b) of this section shall provide a detailed inventory of all property in the State right of way pursuant~~

~~to such lease or license. The inventory shall include the regulatory status of the lease or license holder; categorization of all communications property by type and by its location in the right-of-way, and a description of the service or services enabled by such property, as applicable.~~

~~(f) Notwithstanding 2 V.S.A. § 20(d), beginning on January 1, 2026 and annually thereafter, the Agency shall submit a written report to the General Assembly itemizing all charges and payments collected under this section, as well as an aggregated statewide inventory of the communications property described in subsection (e) of this section. The statewide inventory shall be shared with the Commissioner of Taxes, the Commissioner of Public Service, and the Secretary of Administration.~~

~~Sec. 16. AGENCY OF TRANSPORTATION: POSITIONS;~~

~~APPROPRIATION~~

~~(a) The following new, classified positions are authorized in the Agency of Transportation:~~

~~(1) one temporary full-time position; and~~

~~(2) one permanent full-time position.~~

~~(b) There is appropriated to the Agency of Transportation from the General fund in fiscal year 2025 the sum of \$250,000.00~~

~~* * * Effective Dates * * *~~

~~Sec. 17. EFFECTIVE DATES~~

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

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

~~*(2) this section, Sec. 7 (property tax transition) Sec. 13 (PVR appropriation), Sec. 16 (new transportation positions) shall take effect on passage; and*~~

~~*(3) Secs. 8–12 (communications property tax) shall take effect on July 1, 2025 and shall apply to grand lists lodged on or after April 1, 2025.*~~

** * * Effective Dates * * **

Sec. 14. EFFECTIVE DATES

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

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

~~*(2) this section, Sec. 7 (property tax transition) and Sec. 13 (PVR appropriation) shall take effect on passage; and*~~

~~*(3) Secs. 8–12 (communications property tax) shall take effect on July 1, 2025 and shall apply to grand lists lodged on or after April 1, 2025.*~~