

H.657 Fiscal Considerations

House Committee on Ways and Means

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JFO

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Outline

1. Prewritten Software Accessed Remotely
2. Universal Service Charge Updates
3. Communications Property State Assessment
4. Agency of Transportation Right-of-Way Lease/Access Fee



Prewritten Software Accessed Remotely

Sections 1 - 4



What would become taxable?

“Software as a Service” (“SaaS”), **“Platform as a Service”** (“PaaS”), and **“Infrastructure as a Service”** (“IaaS”) are all currently exempt from the sales tax in Vermont.

- The terms are not uniformly defined in law (or in the computing industry):
 - **SaaS** is when a service provider hosts software applications over the internet for a customer. It is also known as “cloud application services”.
 - **PaaS** is a service containing elements of both IaaS and SaaS. PaaS provides a framework for developers to build on and use to create customized applications.
 - **IaaS** is when a service provider owns, maintains, operates, and houses equipment (such as hardware, servers, network components, etc.) used to support a customer's operations. Customer accesses equipment over the internet and has complete control over the infrastructure.



Examples of Prewritten Software Accessed Remotely

- **Software as a Service (SaaS)**
 - TurboTax and Quickbooks
 - Microsoft Office Online
 - Dropbox
 - Mail Chimp
 - Google Apps (like Docs, Sheets, etc)
 - Toast and Square
- **Platform as a Service (PaaS)**
 - Squarespace web design
 - Force.com (as part of Salesforce)
- **Infrastructure as a Service (IaaS)**
 - Amazon Web Services
 - Google Compute Engine



What is not changed?

- **Streaming Services**

- Services like Netflix or Spotify currently subject to the Sales Tax

- **Software installed on a computer**

- Purchases of a computer game off a platform like Steam and downloaded on a computer already subject to Sales Tax

- **Custom Software**

- Would stay nontaxable

- **Maintenance/Technical Support**

- Would stay nontaxable



Current System Summary

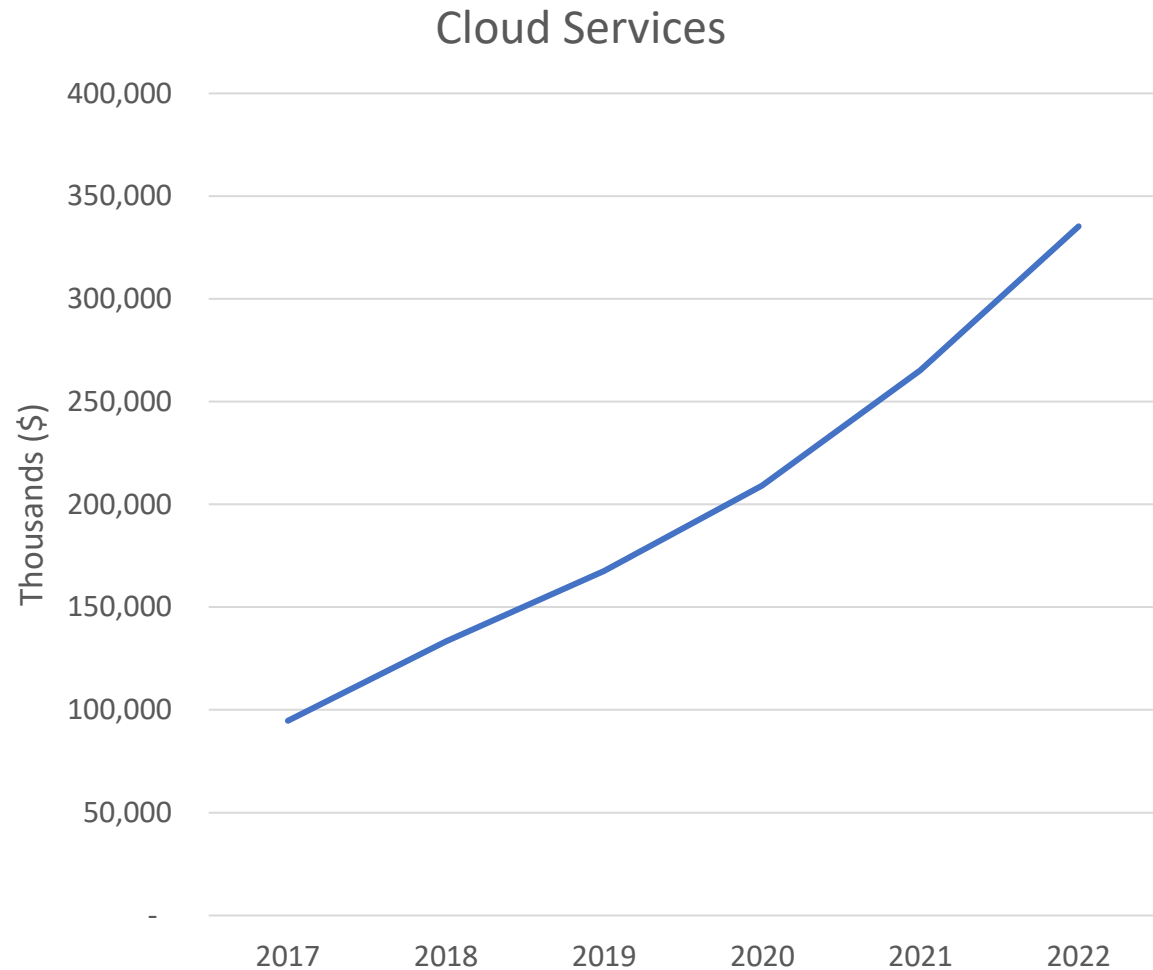
Product	Taxable	Nontaxable
Custom software written exclusively for the customer's business		X
Development and technical support services		X
Digital audio works	X	
Digital audio-visual works	X	
Digital books	X	
Digital photographs		X
Infrastructure as a Service (IaaS)		X
Platform as a Service (PaaS)		X
Prewritten software accessed remotely on the internet or SaaS		X
Prewritten software downloaded from the internet	X	
Prewritten software on tangible storage media	X	
Ringtones	X	

Source: Vermont Department of Taxes <https://tax.vermont.gov/sites/tax/files/documents/FS-1213.pdf>



Industry Growth

- Cloud based software continues to grow into a major US and global industry
- Relevant statistics on growth in industry:
 - BEA Digital Economy Data shows “Cloud Services” increasing by over 23% per year
 - Global Public cloud revenue is estimated to be \$679 billion in 2024 (Gartner)
 - Was \$313 billion in 2020 and \$242 million in 2019



Source: BEA Digital Economy Data



Revenue Impact

- Updated estimate: **\$20.7 million** in the first year of implementation, **\$22.2 million** for a full year
 - Was \$18.4 million in May 2023 but updated data shows significant growth in the industry



Updates to the Universal Service Fund

Sections 5 - 9



Current system and updates

- Currently, telecommunication voice services are assessed a 2.4% retail charge. Examples of these services include:
 - Landlines
 - Wireless (portion of services dedicated to voice)
 - VoIP (Voice over Internet Protocol)
- H.657 would repeal the 2.4% charge for wireline and postpaid wireless and replace it with a \$0.70 per line monthly charge.
 - The bill would maintain the 2.4% retail charge for prepaid wireless voice subscribers
- Preliminary estimate - approximately \$7.28 million with a full year implementation. This is a \$2.31 million increase from current law.
- Effective date January 1, 2025



Universal Service Fund Projection – FY 2026

<i>Estimated Universal Service Fund Revenue Needs</i>	
Program	FY 2026
Vermont Community Broadband Board (1/6 of total revenue need)	1.11
Fiscal Agent	0.13
TRS and Equipment	0.26
Lifeline	0.11
E-911	5.10
988 Crisis Hotline	<u>0.70</u>
Total Revenue Need	\$7.33
Estimated Revenue Generated by \$0.70 Per Line Charge	\$7.28
Estimated Revenue Generated by \$0.75 Per Line Charge	\$7.78



Communications Property Statewide Assessment

Sections 5 - 9



Current system of taxation

- **Two sources of revenue from telecommunications companies adjusted by H.657 – the TPPT and real and personal property on the Grand List**
- **Telephone Personal Property Tax (TPPT)**
 - Applies to telephone companies and interconnected VoIP providers
 - Assessed at 2.37 percent of net book value of telephone property
 - Generated \$2.4 million in General Fund revenue in FY 2023
 - Property assessed the TPPT is not taxed by municipalities or included in the Education Fund



Real and Personal Property

	Definition	Examples
Real Property	Defined as land and any other structures attached to it	Land, buildings, telecommunications towers (in some cases)
Personal Property	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	Furniture, boats, tools, machines

Sources: <https://tax.vermont.gov/property-owners/understanding-property-taxes/assessment>; 32 V.S.A. § 3618

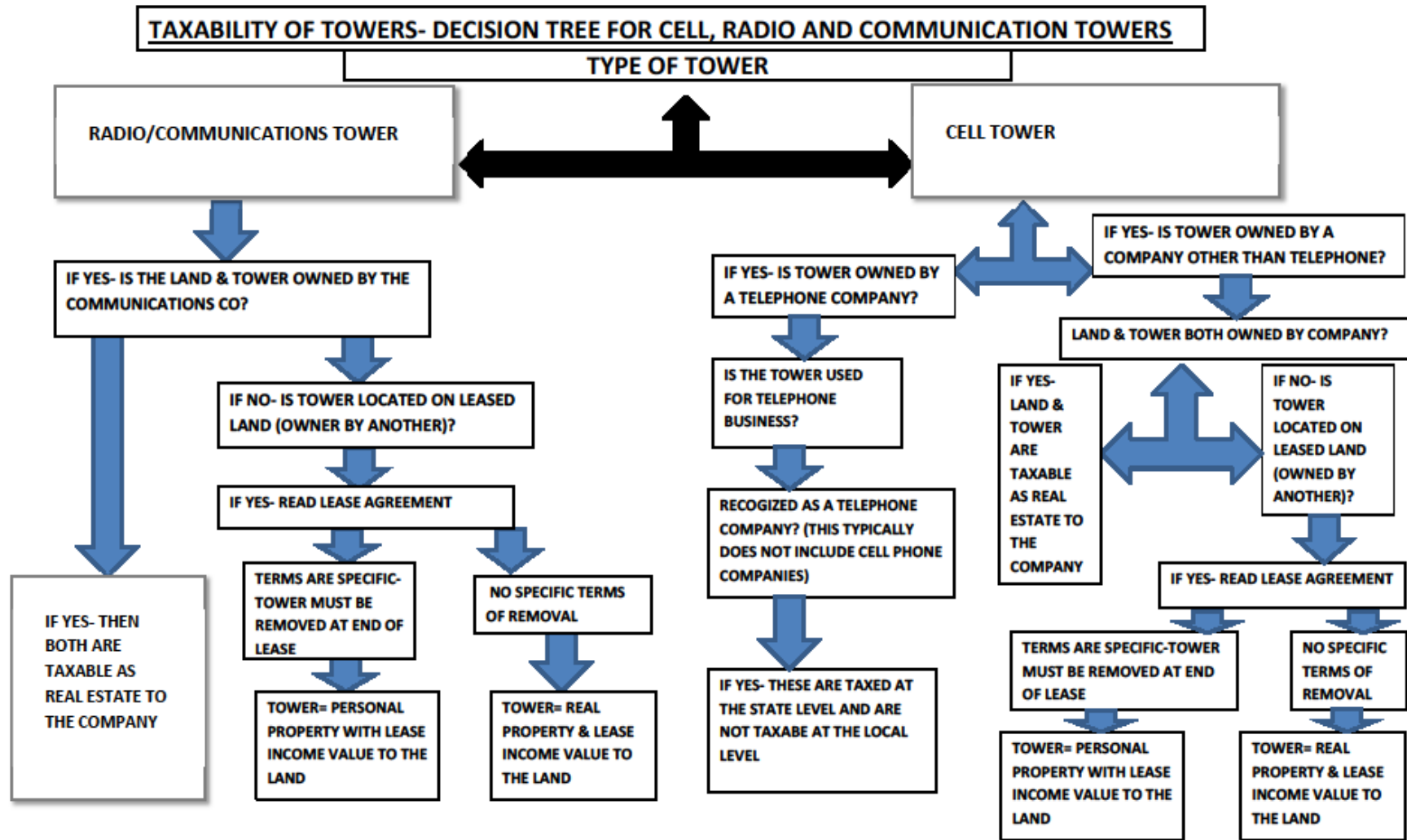


Telecom Real and Personal Property

- **Real property of telecommunications companies**
 - Communications/wireless towers considered real property in some circumstances
 - Telecommunications towers generate an estimated \$0.5 to \$2 million for the Education Fund
- **Personal property of telecommunications companies**
 - For telecommunications companies this includes wires, conduit, lines, switches, routers, power equipment, etc.
 - Cable
 - Comprehensively included on the Grand List and generates revenue for the Education Fund
 - Estimated \$1.7 million in revenue for the Education Fund in FY 24.
 - Other telecommunications companies
 - Treated the same as other types of business personal property
 - Exempt from the Education Fund
 - Taxed in municipalities that have not exempted personal property
 - 42 municipalities tax machinery and equipment
 - 8 municipalities tax inventory



Towers – Real or Personal Property?



Rev. 7/17



Proposed System in H.657

- Repeal TPPT and replace with Statewide Assessment of Communications Property
- Communications Property
 - “tangible facilities used to enable the real-time, two-way, electromagnetic transmission of information”
 - “this term includes wires, cable conduit, pipes, antennas, poles, wireless towers, machinery, distribution hubs, splitters, switching equipment, routers, servers, power equipment, and any other network equipment”
 - Also includes intangible assets such as “any lease, license, permit or other contractual arrangement”
 - Does not include property owned by State or municipal entities (Communications Union Districts)



Examples

- Cable lines
 - Current:
 - Currently assessed as “Cable-Personal Property” on statewide and local grand lists
 - Revenue from property taxes flow to the Education Fund and local municipalities
 - Proposed:
 - “Communications property” subject to the statewide assessment
 - Assessed at 2.37 percent of fair market value
 - Revenue flows to General Fund



Examples

- Router owned by non-public internet provider
 - Current:
 - Considered personal property
 - Exempt from Education Fund
 - Taxed by municipalities that include personal property on the grand list
 - Proposed:
 - Considered “communications property” subject to the statewide assessment
 - Charged 2.37 percent of fair market value
 - Revenue flows to General Fund



Examples

- Cell tower
 - Current:
 - Currently assessed as either real or personal property depending on tower characteristics
 - If real property: on grand list and generates revenue for the Ed Fund and municipalities that tax personal property
 - If personal property: exempt from Education Fund, taxed by municipalities that do not exempt
 - Proposed:
 - Considered “communications property” subject to the statewide assessment
 - Charged 2.37 percent of fair market value
 - Revenue flows to General Fund
- Radio Tower
 - No change as the tower does not allow for two-way communication



Communications Property Statewide Assessment – Revenue Impacts

Source	Current Law Revenue	As proposed	Fund
Communications Property Statewide Assessment/TPPT	\$2.4 million - FY 23 (actual)	Estimated \$10 million	General Fund
Telecommunications Towers – Real Property	\$0.5-2 million (estimated)	\$0.5-\$2 million revenue loss	Education Fund
Cable – Personal Property	\$1.8 million (estimated)	\$1.8 million revenue loss	Education Fund

- These data are for a full year of implementation, starting in FY 26.
- Estimates are preliminary, subject to the constraints and considerations on the next slide



Communications Property Statewide Assessment – Revenue Impacts

- Estimates are preliminary
 - The communications property statewide assessment estimate was derived from other states with a similar taxing structure
 - Other state revenue was scaled to the size of Vermont’s GDP and then further adjusted by the difference between rates
 - These estimates assume that cable property subject to the is primarily personal property, rather than real property
 - Estimates also do not include the value of any “lease, license, permit, or other contractual arrangement” as this information is not readily available
 - Given these constraints, the overall estimate of General Fund revenue from the communications property statewide assessment could vary by \$1-2 million



Access Management Organizations

Section 11-12



AMO capital expenditures

- Currently, individual Access Management Organizations negotiate with cable companies to determine capital revenues
- Commonly 0.50% of cable revenues, statewide average 0.66%
- Under current law, forecasted to generate \$774,000 in 2024 by study of PEG-TV financial viability in 2021
- Change not intended to impact the current 5 percent franchise fee that supports AMO operations

Source: <https://legislature.vt.gov/assets/Legislative-Reports/Report-2021-02-07.docx.pdf>



AOT Right-of-Way Charge

Section 13



State Right of Way

- Estimate of charge not possible
- Legislation required VTrans to assess a “reasonable charge or payment”
- The percentage of state highway right-of-way utilized is not clear
- The number of providers using right of way for each mile also not clear
- The following slides present other state rate schedules for right of way leases
- Federal rules generally require revenues to be invested in transportation.



State Right of Way – NYS Fee Schedule

UPSTATE FIBER OPTIC RATES

Table 1
Longitudinal Aerial: Per-Foot-Per-Year-Per-Cable

CABLE SIZE	TIER 1	TIER 2	TIER 3
Up to 96 strands	\$ 1.96	\$ 1.01	\$ 0.26
97 to 216 strands	\$ 2.81	\$ 1.43	\$ 0.42
217 or more strands	\$ 4.38	\$ 2.44	\$ 0.80

Table 2
Longitudinal Underground: Per-Foot-Per-Year-Per-Cable

TIER	RATE *	MULTIPLIER **
TIER 1	\$ 3.98	\$ 0.0186 per strand
TIER 2	\$ 2.12	\$ 0.0159 per strand
TIER 3	\$ 0.58	\$ 0.0106 per strand

* Rate applies to up to 288 strands

** Multiplier results in a per-strand charge for each additional fiber exceeding 288.

Table 3
Transverse Crossing - Underground and Aerial: Per-Year-Per-Cable

CABLE SIZE	TIER 1	TIER 2	TIER 3
Up to 215 strands	\$ 955	\$ 618	\$ 200
216 to 431 strands	\$ 1,485	\$ 976	\$ 316
432 or more strands	\$ 2,547	\$ 1,697	\$ 549

- Tiers reflect the density of population
 - Tier 1: Buffalo, Rochester, Albany
 - Tier 2: Utica, Binghamton
 - Tier 3: All other upstate areas
- Charges also depend on the size of the cable and whether the cable is above or under the ground

Source: <https://www.dot.ny.gov/divisions/engineering/real-estate/repository/NYSDOT%20FIBER%20OPTIC%20USE%20AND%20OCCUPANCY%20PERMIT%20FEE%20SCHEDULE%20FOR%20PUBLICATION%20OCT%202019.pdf>



State Right of Way – Virginia

- In Virginia, rate determined annually by using a per mile multiplier and adding \$1.00 per foot of new installations in the state
- For FY23, that rate was \$1.01 per access line per month and generated approximately \$35.6 million
 - An access line is the line between a user and the service provider's central office



Preliminary Revenue Summary

Source	Current Law	As proposed	Difference	Fund
Prewritten Software Accessed Remotely		\$22.2 million	\$22.2 million	Education Fund
Per Line Charge	\$5.0 million – FY 23 Actual*	\$7.3 million	\$2.3 million	Universal Service Fund
Communications Property Statewide Assessment	\$2.4 million – FY 23 Actual Estimated \$2.5-\$4 million on Education Grand list	\$10 million (\$2.5-\$4.0 million)	\$7.6 million (\$2.5-\$4.0 million)	General Fund Education Fund
AoT Right-of-Way Charge	\$0	TBD	TBD	Transportation Fund

*rounded to nearest \$0.1 million



Preliminary Revenue Summary

Fund	Difference
General Fund	\$7.6 million
Education Fund	\$18.8-19.7 million
Universal Service Fund	\$2.3 million
Transportation Fund	TBD

