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H.657

Representatives Stebbins of Burlington, Bongartz of Manchester, Clifford of Rutland City, Logan of Burlington, Morris of Springfield, Patt of Worcester, Satcowitz of Randolph, Sheldon of Middlebury, Sibilias of Dover, Smith of Derby, and Torre of Moretown move that the report of the Committee on Ways and Means be amended by inserting a reader assistance heading and a new section to be Sec. 13a to read as follows:

\* \* \* 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

1 factors, such as a prior course of dealing between the parties, that justify  
2 setting rent at less than fair market value.

3 (b)(1) Unless Notwithstanding any other provision of law to the contrary  
4 and unless otherwise required by federal law, beginning on or before July 1,  
5 2025, the Agency shall annually assess, collect, and deposit in the  
6 Transportation Fund a reasonable charge or payment with respect to leases or  
7 licenses for access to or use of State-owned rights-of-way by providers of  
8 broadband or wireless communications facilities or services communications  
9 service providers for communications property as defined in 32 V.S.A.  
10 § 3602b. The Agency may waive such charge or payment in whole or in part if  
11 the provider offers to provide comparable value to the State so as to meet the  
12 public good as determined by the Agency and the Department of Public  
13 Service. For the purposes of this section, the term “comparable value to the  
14 State” shall be construed broadly to further the State’s interest in ubiquitous  
15 broadband and wireless service availability at reasonable cost. Any waiver of  
16 charges or payments for comparable value to the State granted by the Agency  
17 may not exceed five years. Thereafter, the Agency may extend any waiver  
18 granted for an additional period not to exceed five years if the Agency makes  
19 affirmative written findings demonstrating that the State has received and will  
20 continue to receive value that is comparable to the value to the provider of the  
21 waiver, or it may revise the terms of the waiver in order to do so.

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

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

3                   § 1.6002(1), as may be amended.

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

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

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

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

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

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

15                           (A) a communications union district;

16                           (B) a small communications carrier as defined in 30 V.S.A.  
17                   § 8082(10);

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

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

4           (E) an electric transmission or distribution utility.

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

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

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) Beginning on or before January 1, 2025 and annually thereafter, each  
20          communications provider subject to subsection (b) of this section shall provide  
21          to the Secretary of Transportation a detailed inventory of all property in the

1 State-owned rights-of-way. The inventory shall be submitted in a form and  
2 manner prescribed by the Secretary of Transportation consistent with the  
3 purpose of this section. The Secretary shall conduct routine audits to  
4 determine the accuracy of the information submitted pursuant to this  
5 subsection.

6 (f) The inventories required by subsection (e) of this section are exempt  
7 from public inspection and copying under the Public Records Act and shall be  
8 kept confidential. However, they may be shared with other State agencies,  
9 boards, or departments, such as the Department of Taxes, the Agency of  
10 Digital Services, the Department of Public Service, the Public Utility  
11 Commission, the Department of Public Safety, and the Vermont State Auditor  
12 for regulatory purposes. Likewise, such other agencies, boards, and  
13 departments of State government shall assist and cooperate with the Secretary  
14 of Transportation and shall make available information and data as needed to  
15 assist the Secretary in carrying out the Secretary's duties. The Secretary of  
16 Administration shall establish protocols and agreements for interagency  
17 cooperation and assistance pursuant to this subsection. Nothing in this  
18 subsection shall be construed to waive any privilege or protection otherwise  
19 afforded data and information under an exemption to the Public Records Act or  
20 under any other State or federal law due solely to the fact that the information  
21 or data is shared pursuant to this subsection.

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