

1 H.657

2 Senator Wrenner moves that the Senate propose to the House that the bill be  
3 amended as follows:

4 First: By striking out Sec. 7, communications property tax study, in its  
5 entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

6 Sec. 7. COMMUNICATIONS PROPERTY TAX; STUDY AND REPORT;  
7 INVENTORY

8 (a) The Commissioner of Taxes shall conduct a study concerning the  
9 taxation of communications property. The purpose of the study is to develop a  
10 recommendation for an updated tax structure that applies to communications  
11 property in a fair, reasonable, and nondiscriminatory manner and that reflects  
12 modern developments in communications technology and its uses.

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

1        (c) In conducting the study required by this section, the Commissioner shall  
2        seek input from the Secretary of Transportation, the Secretary of Digital  
3        Services, the Commissioner of Public Service, communications property  
4        owners, the Vermont League of Cities and Towns, and any other persons  
5        deemed appropriate by the Commissioner. In addition, the Commissioner shall  
6        review the tax treatment of communications property in other jurisdictions to  
7        determine an appropriate model for Vermont.

8        (d) The Commissioner shall make the following recommendations:

9            (1) for each category of communications property, whether it should be  
10        taxed as real property or as business personal property, taking into  
11        consideration such factors as the use, life-cycle, or location of each category of  
12        network equipment;

13            (2) whether any exemptions should apply to communications property  
14        based on ownership, use, location, public benefit, or any other factor deemed  
15        appropriate by the Commissioner;

16            (3) a method for determining and fixing the valuations of  
17        communications property;

18            (4) the rate or rates at which communications property should be taxed;

19            (5) a process for handling property valuations and appeals that  
20        minimizes the burden on listers and local governments;

1           (6) a process for obtaining in GIS format the data necessary to properly  
2           value and tax communications property from the property owners or from  
3           other State databases, or both, and the time and manner of data submissions,  
4           taking into consideration other regulatory uses and State databases;

5           (7) a process for routinely auditing and enforcing the recommended tax  
6           structure;

7           (8) resources needed to implement the recommended tax structure; and

8           (9) any other recommendations deemed appropriate by the  
9           Commissioner and consistent with the purpose of the section.

10          (e) The Commissioner, in consultation with the Secretary of  
11          Transportation, shall contract with a person with expertise in communications  
12          property valuations and with expertise in geographic information system (GIS)  
13          mapping technology to complete a GIS inventory of communications property  
14          in the State on a town-by-town basis.

15          (f) On or before January 15, 2025, the Commissioner shall submit the  
16          findings and recommendations required by this section in a written report to  
17          the Senate Committee on Finance and the House Committees on Ways and  
18          Means and on Environment and Energy. In addition, the Commissioner shall  
19          share with the Secretary of Transportation the GIS inventory and property  
20          valuations obtained pursuant to this section for inclusion in the right-of-way  
21          GIS database developed by the Secretary of Transportation.



1            AGENCY’S JURISDICTION

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

13            (b)(1) ~~Unless otherwise required by federal law, Beginning on or before~~  
14 July 1, 2025, the Agency shall annually assess, collect, and deposit in the  
15 Transportation Fund ~~a reasonable charge or payment with respect to leases or~~  
16 ~~licenses for access to or use of State-owned rights-of-way by providers of~~  
17 ~~broadband or wireless communications facilities or services~~ the rent required  
18 by this section. ~~The Agency may waive such charge or payment in whole or in~~  
19 ~~part if the provider offers to provide comparable value to the State so as to~~  
20 ~~meet the public good as determined by the Agency and the Department of~~  
21 ~~Public Service. For the purposes of this section, the term “comparable value to~~

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

10 (2) The Secretary shall establish a schedule of rental rates after  
11 consideration of the valuation of the property for taxation purposes pursuant to  
12 32 V.S.A. § 3602b. The Secretary may adjust the rates prescribed in this  
13 section to account for inflationary changes as measured by the Consumer Price  
14 Index.

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

18 ~~(d) Nothing in this section shall be construed to impair any contractual~~  
19 ~~rights existing on June 9, 2007.~~ The State shall have no authority under this  
20 section to waive any sums due to a railroad. The State shall also not offer any  
21 grants or waivers of charges for any new broadband installations in segments

1 of rail corridor where an operating railroad has installed or allowed installation  
2 of fiber optic facilities prior to June 9, 2007 unless the State offers equivalent  
3 terms and conditions to the owner or owners of existing fiber optic facilities.

4 (e) In developing contracts, leases, and licenses under this section, the  
5 Secretary of Transportation shall take into consideration the standard contract  
6 and standard contracting procedure developed by the Secretary of Digital  
7 Services pursuant to 30 V.S.A. § 227b, which pertains to wireless  
8 telecommunications on State-owned buildings, structures, and land.

9 (f) Notwithstanding 2 V.S.A. § 20(d), beginning on January 1, 2026 and  
10 annually thereafter, the Agency shall submit a written report to the General  
11 Assembly itemizing all rent collected under this section.

12 \* \* \* Agency of Transportation; Inventory; Revenue Modeling \* \* \*

13 Sec. 10. BROADBAND AND PUBLIC UTILITY INFRASTRUCTURE;  
14 INVENTORY; REVENUE MODELING

15 (a) The General Assembly finds:

16 (1) For purposes of efficiency and economy, it is essential that the State  
17 expend public funds in a manner that maximizes the use and benefits of both  
18 existing datasets as well as those that are currently in the process of being  
19 developed pursuant to the charge of the Public Safety Communications Task  
20 Force established by 2023 Acts and Resolves No. 78, Sec. C.114.

1           (2) The Public Safety Communications Task Force has recently retained  
2           a System Planning vendor responsible for conducting an inventory of existing  
3           communications infrastructure relevant to public safety communications in  
4           Vermont, including along the State highway system and municipal roadways.

5           (3) This inventory can provide information useful to municipalities  
6           when they prepare their grand lists, and it can serve as a useful basis for the  
7           implementation of 19 V.S.A. § 26a(b) as it pertains to communications and  
8           utility property in the public rights-of-way.

9           (b) The Secretary of Transportation shall contract for an inventory of all  
10           broadband and public utility infrastructure and attachments in the State,  
11           including all aerial and underground assets. The inventory shall be completed  
12           on or before July 1, 2025. As used in this section, “public utility” means a  
13           company subject the jurisdiction of the Public Utility Commission under 30  
14           V.S.A. § 209.

15           (c) Prior to the data collection required by subsection (b) of this section, the  
16           Secretary of Transportation, in consultation with the GIS unit within the  
17           Agency of Digital Services and the Division of Property Valuation and Review  
18           within the Department of Taxes, shall develop a data specification detailing the  
19           needed attributes for collection and modeling pursuant to this section. Each  
20           element of the inventory shall specify the location in GIS format and the owner  
21           or lessee that is liable for payment of right-of-way rent or property tax, or both.



1       (d) The inventory required by this section shall be collected in a manner  
2       that allows for modeling how much potential billable revenue may be realized  
3       by the State and municipalities from all users of the public rights-of-way and in  
4       a manner that facilitates local property tax valuation. The financial model shall  
5       be based on a series of spreadsheets linked to the GIS map composed of the  
6       location inventory of all infrastructure located in the public rights-of-way or on  
7       private property. The inventory shall identify aerial and underground twisted-  
8       pair copper cable used for telephone and data services; coaxial cable; fiber  
9       optic cable, identified by sheathing type and strand count; aerial and  
10       underground electrical conductors and the voltages of each; and underground  
11       natural gas lines.

12       (e) Each communications, electric, and natural gas company shall make  
13       available all its mapped assets in GIS format to the Agency of Transportation  
14       for compilation and then to be managed and maintained in a GIS database by  
15       the Vermont Center for Geographic Information in perpetuity. In addition, and  
16       in a form and manner prescribed by the Secretary of Transportation, each  
17       broadband and public utility that has infrastructure in the ROW shall submit an  
18       inventory of its infrastructure in GIS format to the Agency of Transportation  
19       for inclusion in the ROW GIS database. The Secretary may require such  
20       companies to submit additional information to ensure the database is

1 comprehensive and sufficiently detailed to support various regulatory  
2 purposes, including property taxation, and emergency planning and response.

3 (f) The Secretary of Transportation, in cooperation with the Secretary of  
4 Digital Services, shall create a portal through which all owners of network  
5 infrastructure shall routinely update the GIS database with new build,  
6 removals, or changes and shall establish the time and manner or providing such  
7 updates.

8 (g) The inventory and revenue modeling developed pursuant to this section  
9 shall be accessible by the Commissioner of Taxes, the Commissioner of Public  
10 Service, the Commissioner of Public Safety, and the Director of Vermont  
11 Emergency Management.

12 (h) Nonvisible data collected pursuant to this section is exempt from public  
13 inspection and copying under the Public Records Act until the report required  
14 by Sec. 11 of this act is completed and then shall be publicly available  
15 consistent with the recommendations contained in that report pursuant to  
16 further enactment by the General Assembly or rulemaking.

17 (i) A company that fails to comply with the requirements of this section  
18 shall be subject to a penalty.

19 \* \* \* Study; Broadband and Public Utility Infrastructure; Confidentiality and

20 Transparency \* \* \*

21 Sec. 11. STUDY; BROADBAND AND PUBLIC UTILITY

1                   INFRASTRUCTURE; CONFIDENTIALITY AND  
2                   TRANSPARENCY

3           (a) The Secretary of Transportation shall contract for a study and report  
4           that assess the confidentiality of broadband and public utility infrastructure  
5           collected pursuant to Sec. 10 of this act. The purpose of the study is to ensure  
6           that any critical infrastructure information, trade secrets, or system security  
7           sensitive information that applies to such infrastructure is protected from  
8           public disclosure, including grid and circuit configurations, and detailed  
9           information about outside plant that is not easily collected from public sources  
10          or directly visible.

11          (b) The study required by this section shall be conducted as a separate  
12          request for proposal and contract by a qualified engineering firm and an  
13          attorney, with expertise in broadband and public utility infrastructure as well as  
14          with policy and regulatory experience related to transparency, confidentiality,  
15          and public records exemptions.

16          (c) The General Assembly finds that information that is easily found via  
17          public sources or visible in the right-of-way and not protected from disclosure  
18          includes utility pole locations, aerial plant, pole-mounted cabinets, pedestals,  
19          electric generation facilities, substations, and network building locations.

20          (d)(1) On or before December 15, 2024, the Secretary of Transportation  
21          shall submit a written report to the General Assembly that includes its findings

1 and recommendations related to the study required by this section.

2 Specifically, and with the goal of maintaining maximum transparency and  
3 public access to nonexempt records, the report shall include:

4 (A) standards and procedures for evaluating public records requests  
5 concerning information contained within infrastructure databases, including  
6 recommended redaction parameters, system security considerations, and a  
7 process for evaluating and differentiating exempt information from publicly  
8 available information; and

9 (B) any other standards and procedures deemed relevant by the  
10 Secretary and consistent with the purpose and findings of this section.

11 (2) In addition, the report shall include recommendations specific to  
12 communications union districts (CUDs), including recommendations  
13 describing a policy to be enacted by the General Assembly that would govern  
14 the extent of confidentiality of CUD network details regarding capacity,  
15 resilience, strategies to support competition, operator agreements, and other  
16 operational information held by the CUDs, including network designs, network  
17 facilities locations, business records, and contracts, and including any  
18 suggested amendments to the Public Records Act. In preparing these  
19 recommendations, the Secretary shall consider at least the following:

1           (A) the policies underlying the Public Records Act, including the  
2           importance of maintaining maximum transparency of and public access to  
3           nonexempt records;

4           (B) the economic value to the public and to the communications  
5           industry more broadly from wide dissemination of geographic information  
6           relating to communications facilities' locations;

7           (C) the nature and probability of risks to critical infrastructure and  
8           risks to other communications facilities that would likely follow broad public  
9           disclosure of the materials, functions, design, and locations of communications  
10          infrastructure;

11          (D) the extent and value of trade secrets held by communications  
12          providers with facilities in Vermont;

13          (E) the extent to which public knowledge of facility locations and  
14          designs would compromise the security or operational functioning of existing  
15          networks;

16          (F) the extent to which information claimed by owners as trade  
17          secrets is capable of being derived directly from views available on public  
18          rights-of-way;

19          (G) federal restrictions on disclosure of network information; and

20          (H) the broad obligations for public accountability under the Public  
21          Records Act of governmental entities, including CUDs.



- 1 shall be used by the listers as the valuations of that property for purposes of
- 2 property taxation.
- 3
- 4 and by renumbering the remaining section to be numerically correct.