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THIRD REPRINT

A.B. 526

ASSEMBLY BILL NO. 526—COMMITTEE ON COMMERCE AND LABOR

MARCH 23, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to community antenna television, cable television, video service, Internet service and other information technology. (BDR 58-1129)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets **fornitted-material** is material to be omitted.

AN ACT relating to information technology; revising provisions governing the regulation of community antenna television, cable television and other video service; establishing a new regulatory structure for video service providers; requiring the Secretary of State to perform certain duties under the new regulatory structure; limiting the regulatory powers of local governments regarding video service providers; providing fees; requiring providers of Internet service to offer, under certain circumstances, products or services which enable subscribers to regulate and monitor a child's use of the Internet; providing remedies and penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 This bill enacts various provisions relating to community antenna television,
- 2 cable television, video service, Internet service and other information technology.
- 3 Under existing law, a local government has the authority to grant local
- 4 franchises for the operation of a community antenna or cable television system
- 5 within its jurisdiction. Because each local government has independent authority to
- 6 grant its own franchises, a cable operator that wants to operate in multiple
- 7 jurisdictions must negotiate a separate local franchise with each local government.
- 8 (Chapter 711 of NRS)
- 9 To promote competition in the cable industry, the federal Cable Act prohibits a
- 10 local government from granting an exclusive franchise or unreasonably refusing to
- 11 grant competitive franchises. The federal Cable Act also prohibits a local



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government from imposing a franchise fee that exceeds 5 percent of a cable operator's gross revenue. (47 U.S.C. §§ 541, 542)

This bill repeals the existing statutory scheme of regulating video service through local franchises and replaces it with a statutory scheme that is intended to promote more competition in the market for such service. This bill applies to community antenna television companies, cable operators and other video service providers. However, this bill allows an existing franchise holder to continue operating under its local franchise until that franchise expires, and this bill also allows a local government in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) to renew or extend the term of a local franchise.

Under this bill, a video service provider must obtain a certificate of authority from the Secretary of State, which acts as a state-issued franchise to provide video service within the service areas designated in the certificate. This bill establishes various standards and practices for video service providers, including requirements for providing local governments with community access channels for public, educational and governmental programming.

This bill preempts most local regulation of video service providers. However, this bill allows a local government to manage the activities of video service providers within any public right-of-way or highway, including inspecting any construction or repair work. This bill also allows a local government to impose a franchise fee that does not exceed 5 percent of a video service provider's gross revenue.

Finally, this bill requires a provider of Internet service, under certain circumstances, to make available to subscribers in this State products or services which enable the subscribers to block, restrict and monitor a child's Internet activities. This bill authorizes the provider to charge a fee to those subscribers who elect to use the products or services. A provider of Internet service that fails to comply with the requirements commits a deceptive trade practice and is subject to the procedures for administrative enforcement and the remedies and penalties under the Deceptive Trade Practice Act. (NRS 598.0903-598.0999)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 704.030 is hereby amended to read as follows:
704.030 "Public utility" or "utility" does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to \$5,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or



both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in section 27 of this act, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

Sec. 2. Chapter 711 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 60, inclusive, of this act.

Sec. 3. *“Agreement” means any agreement or contract of any kind.*

Sec. 4. *“Cable operator” has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.*

Sec. 5. *“Cable service” has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.*

Sec. 6. *“Cable system” has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.*

Sec. 7. *“Certificate of authority” or “certificate” means a certificate issued by the Secretary of State pursuant to this chapter which grants the holder of the certificate a state-issued franchise to provide video service and construct and operate a video service network within the service areas designated in the certificate.*

Sec. 8. *“Commercial mobile service provider” means a person who provides commercial mobile service, as defined in 47 U.S.C. § 332(d), as that section existed on January 1, 2007.*

Sec. 9. *“Franchise” has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.*



1 **Sec. 10.** *“Franchise fee” means a franchise fee imposed by a*
2 *local government on a video service provider for the privilege of*
3 *providing video service.*

4 **Sec. 11.** 1. *“Gross revenue” means:*

5 *(a) Any revenue a video service provider receives from its*
6 *subscribers for providing video service to those subscribers, as*
7 *determined in accordance with generally accepted accounting*
8 *principles, except for revenue excluded pursuant to subsection 3;*
9 *and*

10 *(b) Any other consideration a video service provider receives*
11 *from its subscribers for providing video service when it is received*
12 *in a transaction that would evade imposition of a franchise fee if*
13 *such consideration is not included in revenue, except for revenue*
14 *excluded pursuant to subsection 3.*

15 2. *The term includes, without limitation:*

16 *(a) Recurring monthly charges;*

17 *(b) Event-based charges, including, without limitation,*
18 *charges for pay per view and video on demand;*

19 *(c) Charges for the rental of set-top boxes and other*
20 *equipment;*

21 *(d) Service charges, including, without limitation, charges for*
22 *activation, installation, repair and maintenance;*

23 *(e) Administrative charges, including, without limitation,*
24 *charges for service orders and service termination; and*

25 *(f) The amount of any revenue received by a video service*
26 *provider for providing video service when such service is a*
27 *component of a bundle of services or products sold for a single*
28 *price, but only to the extent the revenue received by the video*
29 *service provider for the bundle of services or products is*
30 *proportionately allocated among each of the components.*

31 3. *The term does not include:*

32 *(a) Revenue not actually received, regardless of when it is*
33 *billed.*

34 *(b) Refunds, rebates or discounts made to subscribers.*

35 *(c) Revenue from providing service other than video service,*
36 *including, without limitation, revenue from providing:*

37 1) *Telecommunication service; or*

38 2) *Information service that is not video service.*

39 *(d) Any fee imposed on the video service provider that is*
40 *passed through to and paid by subscribers, including, without*
41 *limitation, a franchise fee.*

42 *(e) Revenue from the sale of video service to any person who*
43 *purchases the video service for resale and who, upon resale, is*
44 *required to pay a franchise fee pursuant to this chapter or the*
45 *terms of a local franchise.*



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(f) Any tax of general applicability.

(g) The fair market value of free or reduced-cost video service provided without set-off or exchange to any person who is entitled or permitted to receive such service pursuant to this chapter or federal law.

(h) Late payment fees collected from subscribers.

Sec. 12. "Holder of a certificate" or "holder" means a video service provider that has been issued a certificate of authority pursuant to this chapter.

Sec. 13. "Incumbent cable operator" means any cable operator, community antenna television company or other video service provider that, on the effective date of this act, is providing video service in this State pursuant to a local franchise.

Sec. 14. "Information service" has the meaning ascribed to it in 47 U.S.C. § 153(20), as that section existed on January 1, 2007.

Sec. 15. "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § 230(f)(2), as that section existed on January 1, 2007.

Sec. 16. "Jurisdiction of a local government" means:

1. In the case of a city, the corporate limits of the city.

2. In the case of a county, the unincorporated area of the county.

Sec. 17. 1. "Local franchise" means any franchise, agreement, permit, license or similar authorization, regardless of its name, which:

(a) Permits a person to construct or operate a cable system, community antenna television system or video service network within the jurisdiction of a local government;

(b) Was issued, granted, approved or renewed by the governing body of the local government before the effective date of this act pursuant to the authority of any federal, state or local law in effect at the time of the issuance, grant, approval or renewal; and

(c) On the effective date of this act, is legally effective and unexpired.

2. The term includes, without limitation, an unexpired local franchise that a local government in a county whose population is less than 100,000 renews or extends the term of pursuant to sections 32 and 32.5 of this act.

Sec. 18. "Local law" means any charter, code, ordinance, regulation or other law of a local government.

Sec. 19. "Multichannel video programming distributor" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.

Sec. 20. "Service area" means the geographical territory in this State within which a video service provider is authorized to



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1 *provide video service pursuant to a certificate of authority or local*
2 *franchise.*

3 **Sec. 21. 1. “Subscriber” means any person in this State**
4 **who purchases video service.**

5 **2. The term does not include any person who purchases video**
6 **service for resale and who, upon resale, is required to pay a**
7 **franchise fee pursuant to this chapter or the terms of a local**
8 **franchise.**

9 **Sec. 22. “Telecommunication” means the transmission,**
10 **between or among points specified by the user, of information of**
11 **the user’s choosing, without change in the form or content of the**
12 **information sent and received, regardless of the facilities,**
13 **equipment or technology used.**

14 **Sec. 23. “Telecommunication provider” means any person**
15 **required to obtain from the Public Utilities Commission of Nevada**
16 **a certificate of public convenience and necessity pursuant to NRS**
17 **704.330 to provide telecommunication service.**

18 **Sec. 24. “Telecommunication service” means the offering of**
19 **telecommunication for a fee directly to the public, or such classes**
20 **of users as to be effectively available directly to the public,**
21 **regardless of the equipment, facilities or technology used.**

22 **Sec. 25. 1. “Video service” means the provision of**
23 **multichannel video programming generally considered**
24 **comparable to video programming delivered by a television**
25 **broadcast station, cable service or other digital television service,**
26 **whether provided as part of a tier, on-demand or on a per-channel**
27 **basis, without regard to the technology used to deliver the video**
28 **service, including, without limitation, Internet protocol technology**
29 **or any successor technology.**

30 **2. The term includes, without limitation:**

31 **(a) Cable service; and**

32 **(b) Video service delivered by a community antenna television**
33 **system.**

34 **3. The term does not include:**

35 **(a) Any video content provided solely as part of, and through,**
36 **a service which enables users to access content, information,**
37 **electronic mail or other services that are offered via the public**
38 **Internet.**

39 **(b) Direct broadcast satellite service.**

40 **(c) Any wireless multichannel video programming provided by**
41 **a commercial mobile service provider.**

42 **Sec. 26. 1. “Video service network” means a wireline**
43 **facility, or any component thereof, which is:**

44 **(a) Located in this State;**



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(b) Constructed in whole or in part in, on, under or over any public right-of-way or highway; and

(c) Used to provide video service.

2. The term includes, without limitation:

(a) A cable system; and

(b) A community antenna television system.

Sec. 27. 1. "Video service provider" or "provider" means any person that provides or offers to provide video service over a video service network to subscribers in this State.

2. The term includes, without limitation:

(a) An incumbent cable operator or other cable operator;

(b) A community antenna television company; and

(c) A multichannel video programming distributor.

Sec. 28. This chapter occupies the entire field of franchising and regulation of video service and, except as otherwise provided in sections 45 and 46 of this act, preempts any local law or agreement with a local government that:

1. Requires a person to obtain or hold from a local government any franchise, permit, license or similar authorization, regardless of its name, to provide video service or to construct or operate a video service network, unless the person is an incumbent cable operator which holds an unexpired local franchise and which has elected pursuant to sections 32 and 32.5 of this act to continue to operate within its service area pursuant to the local franchise.

2. Regulates the provision of video service or the construction or operation of a video service network if such regulation conflicts or is otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

3. Requires a video service provider to pay any fee to a local government if the payment of such a fee conflicts or is otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

Sec. 29. 1. For the purpose of bringing about fair and reasonable competition for video service, the Secretary of State has the exclusive authority to issue a certificate of authority to a person to provide video service and construct and operate a video service network in any service area in this State.

2. The Secretary of State:

(a) Shall carry out the provisions of this chapter; and

(b) May adopt regulations necessary for the issuance, modification and termination of a certificate of authority, including, without limitation, prescribing any forms related to the application process.



3. On or after the effective date of this act, a local government does not have the authority to:

(a) Issue, grant, approve or renew any franchise, agreement, permit, license or similar authorization, regardless of its name, for the privilege of:

(1) Providing video service within the jurisdiction of the local government; or

(2) Except as otherwise provided in sections 45 and 46 of this act, constructing or operating a video service network within the jurisdiction of the local government,

↳ except that a local government in a county whose population is less than 100,000 may renew or extend the term of an unexpired local franchise of an incumbent cable operator which has elected pursuant to sections 32 and 32.5 of this act to continue to operate within its service area pursuant to the local franchise;

(b) Impose any build-out requirements, investment requirements or other requirements relating to infrastructure, facilities or deployment of equipment for the privilege of providing video service or constructing or operating a video service network within the jurisdiction of the local government; or

(c) Except as otherwise provided in sections 45 and 46 of this act, require the payment of any application, document, franchise, service or other fee, tax, charge or assessment for the privilege of providing video service or constructing or operating a video service network within the jurisdiction of the local government.

Sec. 29.5. 1. In carrying out the provisions of this chapter, the Secretary of State shall charge and collect the fees set forth in this section.

2. Except as otherwise provided in subsection 3, the filing fee for accepting any application or notice pursuant to the provisions of this chapter is \$1,000.

3. The filing fee for accepting an original application for a certificate of authority pursuant to sections 33 and 34 of this act:

(a) Is \$250 for a service area located entirely within the territorial boundaries of a county whose population is less than 50,000.

(b) Is \$500 for a service area located in whole or in part within the territorial boundaries of a county whose population is 50,000 or more but less than 100,000, unless the provisions of paragraph (c) apply.

(c) Is \$1,000 for a service area located in whole or in part within a county whose population is 100,000 or more.

4. A person may elect to apply for a certificate of authority that permits, but does not require, the person to provide video service within one or more service areas located anywhere in this



1 State as designated in the application and affidavit filed by the
2 person pursuant to section 33 of this act. If a person applies for
3 such a certificate of authority, the certification fee for issuing the
4 certificate of authority to the person pursuant to sections 33 and
5 34 of this act is \$25,000. The Secretary of State may charge and
6 collect the certification fee pursuant to this subsection only once
7 from each such person.

8 5. If a person elects not to apply for a certificate of authority
9 in accordance with subsection 4, the certification fee for issuing a
10 certificate of authority to the person pursuant to sections 33 and
11 34 of this act or for issuing an amended certificate of authority to
12 the person pursuant to section 35 of this act:

13 (a) Is \$250 for a service area located entirely within the
14 territorial boundaries of a town, township or city whose population
15 is less than 1,000, regardless of the population of the county.

16 (b) Is \$2,500 for a service area located entirely within the
17 territorial boundaries of a town, township or city whose population
18 is 1,000 or more but less than 50,000, regardless of the population
19 of the county.

20 (c) Is \$2,500 for a service area located entirely within the
21 territorial boundaries of a county whose population is less than
22 50,000, unless the provisions of paragraph (a) or (b) apply.

23 (d) Is \$15,000 for a service area located in whole or in part
24 within the territorial boundaries of a county whose population is
25 50,000 or more but less than 100,000, unless the provisions of
26 paragraph (a), (b) or (e) apply.

27 (e) Is \$25,000 for a service area located in whole or in part
28 within the territorial boundaries of a county whose population is
29 100,000 or more, unless the provisions of paragraph (a) or (b)
30 apply.

31 6. The Secretary of State shall charge and collect the fees set
32 forth in this section based on:

33 (a) The information provided in the application and affidavit
34 filed by the person pursuant to paragraph (a) of subsection 2 of
35 section 33 of this act; and

36 (b) The estimated population of each town, township, city and
37 county in this State as set forth in the most recent annual report
38 issued by the Department of Taxation pursuant to NRS 360.283.

39 7. The fees imposed by this section may not be passed
40 through to and collected from subscribers of video service.

41 **Sec. 30.** The provisions of this chapter must not be
42 interpreted to:

43 1. Authorize the Secretary of State to exercise oversight of
44 video service providers except as provided in this chapter.



2. Prevent a telecommunication provider from exercising any rights or authority that the provider has as a public utility under federal or state law.

Sec. 31. Except as otherwise provided in this chapter, a person shall not act as a video service provider or construct or operate a video service network in any service area unless the person has obtained a certificate of authority for that service area.

Sec. 32. 1. If, on the effective date of this act, an incumbent cable operator is providing video service within a service area pursuant to a local franchise, the incumbent cable operator may elect to:

(a) Continue to operate within that service area pursuant to the local franchise in accordance with section 32.5 of this act; or

(b) Terminate the local franchise within that service area by applying for and obtaining a certificate of authority pursuant to this section.

2. To elect to terminate a local franchise within a service area, an incumbent cable operator must, not later than 6 months after the effective date of this act, apply for a certificate of authority for that service area in the same manner as any other video service provider. If the incumbent cable operator makes such an election and obtains a certificate of authority for that service area:

(a) The local franchise for that service area is deemed to be terminated by operation of law on the date on which the Secretary of State issues the certificate of authority;

(b) Not later than 3 business days after the date on which the Secretary of State issues the certificate of authority, the incumbent cable operator shall file with the clerk of the local government which granted the franchise a written declaration that the incumbent cable operator has obtained a certificate of authority and that the local franchise for that service area has been terminated by operation of law; and

(c) The incumbent cable operator shall operate within that service area thereafter subject only to the same requirements that apply to any other holder of a certificate.

Sec. 32.5. 1. Except as otherwise provided in subsection 2, if an incumbent cable operator elects pursuant to section 32 of this act to continue to operate within a service area pursuant to a local franchise:

(a) The incumbent cable operator must comply with the local franchise and all applicable provisions of this chapter while the local franchise is in effect for that service area;

(b) The local franchise is not effective for that service area on or after the date on which the local franchise expires; and



(c) The local government may not renew or extend the term of the local franchise for that service area.

↳ To operate within that service area on or after the date on which the local franchise expires, the incumbent cable operator must apply for and obtain a certificate of authority in the same manner as any other video service provider. If the incumbent cable operator is issued a certificate of authority for that service area while operating pursuant to the local franchise, the certificate does not become effective until the date on which the local franchise expires.

2. If an incumbent cable operator elects pursuant to section 32 of this act to continue to operate within a service area pursuant to a local franchise and the service area is located entirely within the territorial boundaries of a county whose population is less than 100,000:

(a) The incumbent cable operator must comply with the local franchise and all applicable provisions of this chapter while the local franchise is in effect for that service area; and

(b) The local government may renew or extend the term of the local franchise for that service area, provided that the terms and conditions of the renewal or extension do not conflict with or are not otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

↳ To operate within that service area on or after the date on which the local franchise expires without renewal or extension, the incumbent cable operator must apply for and obtain a certificate of authority in the same manner as any other video service provider. If the incumbent cable operator is issued a certificate of authority for that service area while operating pursuant to the local franchise, the certificate does not become effective until the date on which the local franchise expires without renewal or extension.

Sec. 33. 1. To obtain a certificate of authority, a person must:

(a) File with the Secretary of State an application and affidavit which are signed by one of the principal executive officers or general partners of the applicant and which comply with the provisions of this section; and

(b) Pay any fee required by section 29.5 of this act.

2. The application and affidavit must be in the form required by the Secretary of State and must contain only the following:

(a) A description of each service area designated by the applicant in which the applicant intends to provide video service and a map of each such service area that shows the territorial



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1 boundaries of each local government located, in whole or in part,
2 within the service area.

3 (b) The location of the principal place of business of the
4 applicant and the names of the principal executive officers or
5 general partners of the applicant.

6 (c) Certifications that the applicant:

7 (1) Agrees to comply with all applicable federal and state
8 laws and regulations;

9 (2) Agrees to comply with all generally applicable,
10 nondiscriminatory local laws regarding the use and occupation of
11 any public right-of-way or highway in the construction, operation,
12 maintenance and repair of a video service network, including,
13 without limitation, any local laws enacted pursuant to the police
14 powers of the local government in which the video service network
15 is located; and

16 (3) Has filed or will timely file with the Federal
17 Communications Commission all forms required by that agency
18 before offering video service.

19 3. If the Secretary of State determines that the application
20 and affidavit are incomplete or otherwise deficient, the Secretary
21 of State shall provide written notice to the applicant not later than
22 15 days after the date on which the application and affidavit are
23 filed. The written notice must:

24 (a) Explain the incompleteness or deficiency in detail; and

25 (b) Identify with specificity the information or other items that
26 are necessary to complete the application and affidavit properly.

27 4. The applicant shall provide a copy of the application and
28 affidavit to the governing body of each local government located,
29 in whole or in part, within each service area designated in the
30 application. The applicant shall provide such a copy:

31 (a) Not later than 3 business days after the date on which the
32 application and affidavit are first filed with the Secretary of State;
33 and

34 (b) If a revised application and affidavit are filed, not later
35 than 3 business days after the date on which the revised
36 application and affidavit are filed with the Secretary of State.

37 5. The copy of the application and affidavit provided by the
38 applicant to a governing body is for informational purposes only,
39 and the governing body may not:

40 (a) Vote on or take other official action regarding the
41 application and affidavit; or

42 (b) Require the applicant to obtain the approval of the
43 governing body regarding the application and affidavit.

44 **Sec. 34. 1.** Not later than 20 days after the date on which
45 an applicant files a completed application and affidavit pursuant



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1 to section 33 of this act and pays any fee required by section 29.5
2 of this act, the Secretary of State shall issue a certificate of
3 authority to the applicant.

4 2. The certificate of authority issued by the Secretary of State
5 is a state-issued franchise granting the holder of the certificate
6 with the authority to:

7 (a) Provide video service in each service area designated in the
8 application and affidavit filed with the Secretary of State; and

9 (b) Construct and operate a video service network in
10 compliance with the provisions of this chapter and all local laws
11 that are not in conflict or otherwise inconsistent with the
12 provisions of this chapter or the purposes and objectives of this
13 chapter.

14 3. The Secretary of State may not condition or limit a
15 certificate of authority by imposing on the holder of the certificate
16 any obligations or requirements that are not authorized by the
17 provisions of this chapter, including, without limitation:

18 (a) Any build-out requirements, investment requirements or
19 other requirements relating to infrastructure, facilities or
20 deployment of equipment; or

21 (b) Any requirements to pay any application, document,
22 franchise, service or other fee, tax, charge or assessment that is
23 not authorized by the provisions of this chapter.

24 **Sec. 35. 1.** If the holder of a certificate wants to add one or
25 more new service areas to the certificate, the holder must:

26 (a) File with the Secretary of State an application for an
27 amendment to the certificate to add the new service areas; and

28 (b) Pay any fee required by section 29.5 of this act.

29 2. The application for an amendment to the certificate must
30 contain a description of each new service area designated by the
31 holder and a map of each new service area that shows the
32 territorial boundaries of each local government located, in whole
33 or in part, within the new service area.

34 3. The application for an amendment to the certificate is
35 subject to the same procedures, requirements and time periods as
36 an application for the issuance of a certificate pursuant to sections
37 33 and 34 of this act.

38 **Sec. 36. 1.** If the holder of a certificate wants to modify the
39 boundaries of an existing service area authorized under the
40 certificate, the holder must file with the Secretary of State written
41 notice of the modification and pay any fee required by section 29.5
42 of this act.

43 2. The holder may make the modification on the date on
44 which it files the written notice with the Secretary of State.



1 **Sec. 37. 1.** *If the holder of a certificate wants to terminate*
2 *service to an existing service area authorized under the certificate,*
3 *the holder must file with the Secretary of State written notice of*
4 *the termination and pay any fee required by section 29.5 of this*
5 *act.*

6 **2.** *The holder may make the termination on the date on which*
7 *it files the written notice with the Secretary of State.*

8 **Sec. 38. 1.** *Except as otherwise provided in this section, a*
9 *certificate of authority is fully transferable to any successor-in-*
10 *interest of the holder of the certificate whether the transfer to the*
11 *successor-in-interest arises through merger, sale, assignment,*
12 *restructuring, change of control or any other type of transaction.*

13 **2.** *The holder shall file with the Secretary of State written*
14 *notice of the transfer of the certificate to the successor-in-interest*
15 *and pay any fee required by section 29.5 of this act not later than*
16 *10 days after the date on which the transfer is completed.*

17 **3.** *Before the holder may transfer its certificate to the*
18 *successor-in-interest, the successor-in-interest must agree that any*
19 *collective bargaining agreement entered into by the holder shall*
20 *continue to be honored, paid or performed by the successor-in-*
21 *interest to the same extent as would be required if the holder*
22 *continued to operate under its certificate unless such continued*
23 *application of the collective bargaining agreement to the*
24 *successor-in-interest is prohibited or limited by the terms of the*
25 *agreement or by federal or state law. Any transfer of a certificate*
26 *of authority that violates the provisions of this subsection is void*
27 *and unenforceable and is not valid for any purpose.*

28 **Sec. 39. 1.** *Not later than 24 months after the date on*
29 *which the Secretary of State issues a certificate of authority*
30 *pursuant to sections 33 and 34 of this act or an amended*
31 *certificate of authority pursuant to section 35 of this act, the*
32 *holder of the certificate must have the capability to offer and*
33 *provide video service to at least one subscriber who resides within*
34 *the territorial boundaries of each service area authorized by the*
35 *certificate or the amended certificate.*

36 **2.** *If a holder fails to comply with the provisions of subsection*
37 *1, the holder's certificate of authority shall be deemed to be*
38 *revoked by operation of law without the need for any notice,*
39 *hearing or action by the Secretary of State.*

40 **Sec. 40.** *A holder of a certificate shall provide video service*
41 *in accordance with the certifications made by the holder in each*
42 *application and affidavit that the holder files with the Secretary of*
43 *State pursuant to section 33 or 35 of this act.*

44 **Sec. 40.5. 1.** *If a video service provider that is not an*
45 *incumbent cable operator within the jurisdiction of a local*



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1 *government intends to construct facilities within the jurisdiction of*
2 *the local government pursuant to a certificate of authority, the*
3 *video service provider shall, until it has constructed all the*
4 *facilities intended for the jurisdiction of the local government,*
5 *prepare and submit to the local government a semiannual report*
6 *which describes the number of service locations within the*
7 *jurisdiction of the local government that are capable of receiving*
8 *video service from the video service provider.*

9 2. *The video service provider shall submit the report to the*
10 *local government not later than 10 business days after the last day*
11 *of the second and fourth calendar quarters of each year.*

12 3. *The information contained in a report that is submitted to*
13 *a local government pursuant to this section:*

14 (a) *Is confidential proprietary information of the video service*
15 *provider;*

16 (b) *Is not a public record; and*

17 (c) *Must not be disclosed to any person who is not an officer or*
18 *employee of the local government unless the video service provider*
19 *consents to the disclosure or the disclosure is made pursuant to*
20 *subsection 4.*

21 4. *Upon request from the Director of the Legislative Counsel*
22 *Bureau, a local government shall disclose the information*
23 *contained in a report that is submitted to the local government*
24 *pursuant to this section to the Director for confidential use by the*
25 *Legislature and the Legislative Counsel Bureau. The information*
26 *that is disclosed to the Director:*

27 (a) *Is confidential proprietary information of the video service*
28 *provider;*

29 (b) *Is not a public record; and*

30 (c) *Must not be disclosed to any person who is not an officer or*
31 *employee of the Legislature or the Legislative Counsel Bureau*
32 *unless the video service provider consents to the disclosure.*

33 **Sec. 41.** 1. *A video service provider shall activate and offer*
34 *video service in a nondiscriminatory manner within each service*
35 *area and shall not deny access to video service to any group of*
36 *potential residential subscribers within a particular part of a*
37 *service area because of the income profile of the persons who*
38 *reside in that particular part of the service area.*

39 2. *In providing video service, a video service provider shall*
40 *comply with:*

41 (a) *The provisions of 47 U.S.C. § 551, as that section existed*
42 *on January 1, 2007.*

43 (b) *The provisions of the National Electrical Safety Code, as*
44 *adopted and as may be amended by the Institute of Electrical and*



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1 *Electronics Engineers, Inc., with regard to the video service*
2 *provider's construction practices and installation of equipment.*

3 (c) *Any technical standards governing the design, construction*
4 *and operation of a video service network required by federal law.*

5 (d) *The provisions of 47 C.F.R. Part 11, as adopted and as may*
6 *be amended by the Federal Communications Commission, to the*
7 *extent those provisions require a video service provider to*
8 *participate in the Emergency Alert System.*

9 **Sec. 42. 1. A video service provider:**

10 (a) *Shall comply with the provisions of 47 C.F.R. §§ 76.309,*
11 *76.1601 to 76.1604, inclusive, and 76.1618 to 76.1622, inclusive,*
12 *as adopted and as may be amended by the Federal*
13 *Communications Commission, with regard to the standards*
14 *governing the quality of video service and customer service; and*

15 (b) *May not be required to comply with more stringent or*
16 *different customer service obligations than those set forth in*
17 *paragraph (a).*

18 **2. To facilitate the resolution of complaints regarding video**
19 **service made by subscribers:**

20 (a) *A video service provider shall establish and maintain a*
21 *customer service department and provide each subscriber with*
22 *instructions for:*

23 (1) *Contacting the customer service department if the*
24 *subscriber has a complaint regarding video service; and*

25 (2) *Contacting the local government if the video service*
26 *provider does not resolve the complaint to the satisfaction of the*
27 *subscriber.*

28 ➡ *The video service provider shall provide such instructions to the*
29 *subscriber in each bill and in any service-related notice or other*
30 *direct correspondence which the video service provider sends to*
31 *the subscriber and which is related to that subscriber's video*
32 *service. For the purposes of this paragraph, "service-related notice*
33 *or other direct correspondence" does not include general*
34 *advertising, marketing, promotional or public service materials*
35 *that the video service provider sends to other subscribers or the*
36 *public generally.*

37 (b) *Each local government which is located in a county whose*
38 *population is 25,000 or more and which collects a franchise fee*
39 *pursuant to section 46 of this act shall establish a process to:*

40 (1) *Make available to the public a list of video service*
41 *providers authorized to provide video service within the*
42 *jurisdiction of the local government;*

43 (2) *Respond to inquiries from subscribers and disseminate*
44 *information to those subscribers regarding the standards*
45 *governing the quality of video service and customer service*



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1 *prescribed by subsection 1 and the procedures available to*
2 *subscribers to resolve complaints with such video service*
3 *providers;*

4 *(3) Coordinate the resolution of subscriber complaints with*
5 *the customer service departments of such video service providers;*

6 *(4) Facilitate access by subscribers to procedures to seek*
7 *corrective action or other redress from such video service*
8 *providers for alleged violations of the customer service standards*
9 *prescribed by subsection 1; and*

10 *(5) Maintain a record of the number and general subject*
11 *matter of subscriber complaints against each such video service*
12 *provider. The record must contain a separate listing for each such*
13 *video provider and must be made available for public inspection.*

14 *3. Before a local government may take the action permitted*
15 *by subsection 4 against a video service provider regarding a*
16 *complaint from a subscriber:*

17 *(a) The subscriber must provide notice of the complaint to the*
18 *video service provider by contacting the customer service*
19 *department of the video service provider; and*

20 *(b) The video service provider must be given a period of not*
21 *less than 10 business days after the date on which it receives the*
22 *notice from the subscriber to resolve the complaint to the*
23 *satisfaction of the subscriber.*

24 *4. If a local government has reasonable cause to believe that*
25 *a video service provider has committed persistent or repeated*
26 *violations of the customer service obligations that apply to the*
27 *video service provider pursuant to this section, the local*
28 *government may file a written complaint with the Bureau of*
29 *Consumer Protection in the Office of the Attorney General*
30 *pursuant to section 60 of this act.*

31 **Sec. 43.** *1. A video service provider may provide*
32 *telecommunication service pursuant to chapter 704 of NRS and*
33 *the regulations approved by the Public Utilities Commission of*
34 *Nevada for telecommunication providers.*

35 *2. A video service provider shall obtain a certificate of public*
36 *convenience and necessity pursuant to NRS 704.330 before*
37 *providing any telecommunication service that is subject to*
38 *regulation by the Public Utilities Commission of Nevada.*

39 *3. A local government shall not require a video service*
40 *provider to obtain a franchise from the local government to*
41 *provide:*

42 *(a) Telecommunication service; or*

43 *(b) Interactive computer service,*



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1 *↪ if the video service provider uses its own video service network*
2 *within the jurisdiction of the local government to provide such*
3 *service.*

4 **Sec. 44.** (Deleted by amendment.)

5 **Sec. 45.** 1. *A local government shall not require a video*
6 *service provider to place its facilities in ducts or conduits or on*
7 *poles owned or leased by the local government.*

8 2. *A local government shall manage the use of any public*
9 *right-of-way or highway by video service providers in a manner*
10 *that:*

11 (a) *Is consistent with federal and state law and the lawful*
12 *police powers of the local government; and*

13 (b) *Is competitively neutral and does not:*

14 (1) *Discriminate among video service providers; or*

15 (2) *Discriminate between video service providers and any*
16 *other users of the public right-of-way or highway for the*
17 *construction and operation of facilities.*

18 3. *In managing any public right-of-way or highway, a local*
19 *government may:*

20 (a) *Require a video service provider that is constructing,*
21 *installing, working within, maintaining or repairing facilities in,*
22 *on, under or over any public right-of-way or highway to obtain a*
23 *construction, encroachment or occupancy permit or license for*
24 *such work; and*

25 (b) *Inspect the construction, installation, maintenance or*
26 *repair work performed on such facilities.*

27 4. *If a video service provider makes a request for such a*
28 *permit or license, the local government shall act upon the request*
29 *not later than 10 business days after the date on which the request*
30 *is made.*

31 5. *A local government may charge a video service provider a*
32 *fee to issue such a permit or license or to perform any inspection*
33 *authorized by this section. The amount of any fee charged by a*
34 *local government pursuant to this subsection may not exceed the*
35 *actual costs incurred by the local government in administering the*
36 *process of issuing such permits or licenses and performing such*
37 *inspections.*

38 6. *If there is a situation necessitating emergency response*
39 *work or repair in, on, under or over any public right-of-way or*
40 *highway, a video service provider may begin that work or repair*
41 *without prior approval from a local government if the provider*
42 *notifies the local government as promptly as reasonably possible*
43 *after learning of the need for that work or repair.*

44 **Sec. 46.** 1. *For the privilege of providing video service*
45 *through a video service network that occupies or uses, in whole or*



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1 *in part, any public right-of-way or highway within the jurisdiction*
2 *of a local government, the local government may require a video*
3 *service provider to pay a franchise fee to the local government*
4 *based on the gross revenue that the provider receives from its*
5 *subscribers within the jurisdiction of the local government.*

6 2. *To require the payment of the franchise fee, the governing*
7 *body of the local government must adopt a nondiscriminatory*
8 *ordinance or resolution that imposes the franchise fee equally and*
9 *uniformly on all video service providers operating within the*
10 *jurisdiction of the local government.*

11 3. *The local government shall not require a video service*
12 *provider to pay a franchise fee for any year in a total amount that*
13 *exceeds 5 percent of the gross revenue that the provider received*
14 *during that year from its subscribers within the jurisdiction of the*
15 *local government.*

16 4. *The entire amount of the franchise fee must be paid by a*
17 *video service provider directly to the local government in legal*
18 *tender of the United States or in a check, draft or note that is*
19 *payable in legal tender of the United States.*

20 5. *A video service provider may:*

21 (a) *Pass the franchise fee through to and collect the franchise*
22 *fee from its subscribers within the jurisdiction of the local*
23 *government based on the gross revenue received from each such*
24 *subscriber; and*

25 (b) *Designate the amount of the franchise fee collected from*
26 *each subscriber as a separate line item on the subscriber's bill.*

27 6. *Except as otherwise provided in subsection 7, the franchise*
28 *fee authorized by this section:*

29 (a) *Is the only fee, tax, assessment or other charge that a local*
30 *government may impose on a video service provider for the*
31 *privilege of providing video service or constructing or operating a*
32 *video service network within the jurisdiction of the local*
33 *government; and*

34 (b) *Is in lieu of any other fee, tax, assessment or charge that*
35 *may be imposed by a local government on a video service provider*
36 *for its occupation or use of any public right-of-way or highway.*

37 7. *This section does not restrict the right of a local*
38 *government to impose on a video service provider:*

39 (a) *The fees authorized by subsection 5 of section 45 of this*
40 *act; and*

41 (b) *Any generally applicable and nondiscriminatory fees, ad*
42 *valorem taxes, sales taxes or other taxes that are lawfully imposed*
43 *on other businesses within the jurisdiction of the local*
44 *government.*



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1 **Sec. 47. 1.** *Not more than once every 3 years, a local*
2 *government may, upon reasonable written notice, review and audit*
3 *the business records of a video service provider to the extent*
4 *necessary to ensure payment of a franchise fee pursuant to this*
5 *chapter. If the results of such a review and audit identify an*
6 *underpayment of the franchise fee in an amount that requires*
7 *corrective action, the local government may perform a subsequent*
8 *compliance review and audit to determine whether the video*
9 *service provider has corrected the underpayment of the franchise*
10 *fee. The compliance review and audit must be performed not later*
11 *than 12 months after the date on which the results of the initial*
12 *review and audit are submitted to the local government.*

13 **2.** *The local government and the video service provider shall*
14 *each pay its own costs and fees relating to each review and audit*
15 *performed pursuant to subsection 1, except that if the video service*
16 *provider elects to have the local government review and audit the*
17 *requested business records of the video service provider at a*
18 *location outside the territorial boundaries of the local government,*
19 *the video service provider shall pay the per diem allowances and*
20 *travel expenses incurred by the local government to perform the*
21 *review and audit at that location.*

22 **3.** *A person who performs a review and audit pursuant to*
23 *subsection 1 may not receive compensation that is based, in whole*
24 *or in part, on:*

25 **(a)** *Finding a particular result; or*

26 **(b)** *The amount of any underpayment of the franchise fee that*
27 *is identified as a result of the review and audit.*

28 **4.** *Any action to recover a disputed underpayment of a*
29 *franchise fee from a video service provider must be commenced*
30 *and prosecuted by the Attorney General on behalf of the affected*
31 *local governments.*

32 **5.** *A video service provider may bring an action against a*
33 *local government to recover a disputed overpayment of a franchise*
34 *fee to the local government.*

35 **6.** *Any action to recover a disputed underpayment or*
36 *overpayment of a franchise fee must be commenced in a district*
37 *court not later than 4 years after the last day of the tax year to*
38 *which the disputed underpayment or overpayment relates.*

39 **7.** *Each party shall pay its own costs and attorney's fees in*
40 *commencing and prosecuting any action involving a disputed*
41 *underpayment or overpayment of a franchise fee.*

42 **Sec. 48.** *As used in sections 48 to 59, inclusive, of this act,*
43 *unless the context otherwise requires, the words and terms defined*
44 *in sections 49 to 53, inclusive, have the meanings ascribed to them*
45 *in those sections.*



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1 **Sec. 49.** *“Hub office” means the facility and related*
2 *equipment located within a video service network at which video*
3 *programming is received directly or indirectly from national or*
4 *international content providers or broadcast networks and*
5 *combined with local programming and channels for signal*
6 *distribution to subscribers through central offices and related*
7 *transmission or transport facilities.*

8 **Sec. 50.** *“Locally produced video programming” means*
9 *video programming produced for a service area by:*

10 1. *One or more natural persons who reside within the service*
11 *area; or*

12 2. *Any local government, educational institution or other*
13 *public or nonprofit private entity located within the service area.*

14 **Sec. 51.** *“Nonrepeat locally produced video programming”*
15 *includes, without limitation, the first three videocastings of an*
16 *official meeting of a local government.*

17 **Sec. 52.** *“PEG access channel” means a channel that*
18 *videocasts PEG access programming.*

19 **Sec. 53.** *“PEG access programming” means noncommercial*
20 *public, educational and governmental video programming or the*
21 *capacity for the transmission of such programming.*

22 **Sec. 54.** *For the purposes of sections 48 to 59, inclusive, of*
23 *this act, a PEG access channel shall be deemed to be*
24 *“substantially utilized” if at least 12 hours of PEG access*
25 *programming, excluding any alpha-numeric programming, is*
26 *videocast on the PEG access channel each calendar day and at*
27 *least 80 percent of the PEG access programming on each calendar*
28 *day is nonrepeat locally produced video programming.*

29 **Sec. 54.5.** 1. *Except as otherwise provided in subsection 2,*
30 *the provisions of sections 48 to 59, inclusive, of this act do not*
31 *apply to any existing PEG access channel in service on the*
32 *effective date of this act.*

33 2. *The provisions of sections 48 to 59, inclusive, of this act do*
34 *not prevent a video service provider from changing the channel*
35 *number assigned to any PEG access channel, including, without*
36 *limitation, any existing PEG access channel in service on the*
37 *effective date of this act. If a video service provider intends to*
38 *change the channel number assigned to any PEG access channel,*
39 *the provider:*

40 (a) *Shall use good faith efforts to provide the affected local*
41 *government with written notice of the change, to the extent*
42 *reasonably practicable, at least 120 days before the date on which*
43 *the change is to become effective; and*

44 (b) *Shall not provide such notice less than 30 days before the*
45 *date on which the change is to become effective.*



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1 **Sec. 55.** *Except as otherwise provided in sections 48 to 59,*
2 *inclusive, of this act, a holder of a certificate is not required to:*

3 1. *Provide any network or channel capacity or free or*
4 *discounted cable service or other service to any governmental*
5 *entity or school, library or other public building; or*

6 2. *Furnish any funds, services, programming, facilities,*
7 *staffing or equipment related to the use of PEG access channels or*
8 *the production or videocasting of PEG access programming.*

9 **Sec. 56.** 1. *Not sooner than 12 months after the date on*
10 *which an incumbent cable operator obtains a certificate of*
11 *authority, the incumbent cable operator may cease providing any*
12 *network or channel capacity or free or discounted cable service or*
13 *other service to any governmental entity or school, library or other*
14 *public building.*

15 2. *If an incumbent cable operator ceases to provide network*
16 *or channel capacity to a governmental entity, the incumbent cable*
17 *operator may reclaim for its own purposes the network or channel*
18 *capacity that was used by the governmental entity unless:*

19 (a) *The governmental entity uses the capacity for PEG access*
20 *programming pursuant to sections 48 to 59, inclusive, of this act;*
21 *or*

22 (b) *The incumbent cable operator and the governmental entity*
23 *enter into a commercial agreement regarding the rates, terms and*
24 *conditions for the governmental entity to continue using the*
25 *network or channel capacity.*

26 **Sec. 57.** 1. *On or after the date on which a holder of a*
27 *certificate first provides video service to at least one subscriber*
28 *within the service area of a local government, the local*
29 *government may request that the holder provide capacity for PEG*
30 *access programming on its video service network on any service*
31 *tier viewed by more than 50 percent of the subscribers in that*
32 *service area. Within a reasonable period of not less than 120 days*
33 *after the date on which the local government submits its request,*
34 *the holder shall provide the local government with such capacity*
35 *for PEG access programming subject to the provisions of sections*
36 *48 to 59, inclusive, of this act.*

37 2. *If a video service provider did not provide capacity for PEG*
38 *access programming to a local government while operating*
39 *pursuant to a local franchise, the video service provider shall,*
40 *after obtaining a certificate of authority, provide capacity for PEG*
41 *access programming to the local government upon a request made*
42 *by the local government pursuant to this section.*

43 **Sec. 58.** 1. *A local government that requests capacity for*
44 *PEG access programming may require a holder of a certificate to*
45 *designate:*



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1 (a) Not more than two PEG access channels, if the population
2 within the jurisdiction of the local government is less than 50,000.

3 (b) Not more than three PEG access channels, if the
4 population within the jurisdiction of the local government is
5 50,000 or more.

6 2. The number of PEG access channels set forth in
7 subsection 1 constitutes the total number of PEG access channels
8 that the holder may be required to designate on any single video
9 service network utilizing a single headend or hub office, or on all
10 commonly owned video service networks that share a common
11 headend or hub office, regardless of the number of local
12 governments served from that headend or hub office. If more than
13 one local government is served by a single or common headend or
14 hub office, the populations within the jurisdictions of all those
15 local governments must be aggregated to determine the total
16 number of PEG access channels under subsection 1.

17 3. When a local government submits its request for capacity
18 for PEG access programming, the local government must submit
19 information which establishes that each PEG access channel it
20 has requested will be substantially utilized. If one or more of the
21 PEG access channels available under subsection 1 are being used
22 at the headend or hub office when the local government submits
23 its request, the holder is not required to make any of the
24 remaining PEG access channels available to the local government
25 unless the local government submits information which
26 establishes that all existing PEG access channels at the headend
27 or hub office are being substantially utilized.

28 4. Except as otherwise provided in subsection 5, if a local
29 government does not substantially utilize a PEG access channel
30 made available to it pursuant this section, the holder may reclaim
31 the channel capacity for its own purposes. After reclaiming the
32 channel capacity, if the local government makes a request for
33 restoration of the PEG access channel and submits to the holder
34 information which establishes that the PEG access channel will be
35 substantially utilized, the holder shall restore the PEG access
36 channel to the local government unless, when the request is
37 submitted to the holder, the maximum number of PEG access
38 channels available under subsection 1 are being used at the
39 headend or hub office which serves the local government. If
40 the restoration can be made within the limits of subsection 1, the
41 holder shall restore the PEG access channel to the local
42 government within a reasonable period of not less than 120 days
43 after the date on which the request is submitted to the holder.

44 5. The provisions of subsection 4 do not apply to the first
45 PEG access channel which is made available to a local



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1 *government that does not have a PEG access channel in service*
2 *on the effective date of this act.*

3 **Sec. 59.** 1. *A local government receiving the benefit of a*
4 *PEG access channel, or its designee, is responsible for producing*
5 *the programming of that channel and for providing that*
6 *programming to the holder of a certificate. The holder is*
7 *responsible only for the transmission of the programming to*
8 *subscribers.*

9 2. *A local government, or its designee, shall provide to the*
10 *holder all programming for a PEG access channel in a manner or*
11 *form that is:*

12 (a) *Capable of being accepted and transmitted by the holder*
13 *over its video service network without alteration or change in the*
14 *content or transmission signal; and*

15 (b) *Compatible with the technology or protocol utilized by the*
16 *holder to deliver its video service.*

17 3. *A local government shall:*

18 (a) *Make the programming for each PEG access channel*
19 *available in a nondiscriminatory manner to all holders or*
20 *incumbent cable operators providing video service in the service*
21 *area of the local government.*

22 (b) *Provide all facilities necessary for connectivity to a single*
23 *PEG access channel distribution point in the service area of the*
24 *local government, except that the first 200 feet extending from the*
25 *video service network for the connectivity is the responsibility of*
26 *the holder.*

27 4. *Where necessary and technically feasible, holders or*
28 *incumbent cable operators shall use reasonable efforts to*
29 *interconnect their video service networks for the purpose of*
30 *exchanging PEG access channel programming on mutually*
31 *acceptable rates, terms and conditions. Interconnection may be*
32 *accomplished by direct cable microwave link, satellite or other*
33 *reasonable methods of connection. Holders and incumbent cable*
34 *operators shall negotiate interconnection in good faith. The*
35 *person requesting interconnection is responsible for any costs,*
36 *including, without limitation, signal transmission from the*
37 *origination point to the point of interconnection.*

38 **Sec. 60.** 1. *A video service provider or a local government*
39 *may file with the Bureau of Consumer Protection a written*
40 *complaint alleging a violation of the provisions of this chapter.*

41 2. *Upon a written complaint filed by a video service provider*
42 *or a local government pursuant to this section, the Consumer's*
43 *Advocate may commence in a district court an action to enforce*
44 *the provisions of this chapter and to seek equitable or declaratory*
45 *relief.*



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3. If such an action is commenced against a video service provider and the district court determines that the provider has violated any provision of this chapter, the court shall issue an order to the provider directing the provider to take corrective action within a specified reasonable period and providing for such other equitable or declaratory relief as the court finds necessary, including, without limitation, suspending the certificate of authority held by the video service provider.

4. If the district court orders equitable or declaratory relief in an action brought by the Consumer's Advocate pursuant to this section, the court shall award the Consumer's Advocate, in an amount approved by the court, reasonable attorney's fees and costs incurred by the Consumer's Advocate in bringing the action.

5. The provisions of this section do not:

(a) Apply to any action authorized pursuant to NRS 711.265 to 711.290, inclusive, or section 47 of this act.

(b) Prevent the Bureau of Consumer Protection from enforcing any applicable provisions of chapter 598 of NRS against a video service provider.

6. As used in this section:

(a) "Bureau of Consumer Protection" means the Bureau of Consumer Protection in the Office of the Attorney General.

(b) "Consumer's Advocate" means the Consumer's Advocate of the Bureau of Consumer Protection.

Sec. 61. NRS 711.020 is hereby amended to read as follows:

711.020 ~~{The words and phrases}~~ As used in this chapter ~~{have the meanings ascribed to them}~~, unless the context otherwise requires, the words and terms defined in NRS 711.030 to 711.074, inclusive, ~~{unless a different meaning clearly appears in the context.}~~ and sections 3 to 27, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 62. NRS 711.030 is hereby amended to read as follows:

711.030 1. "Community antenna television company" means any person ~~{for organization which}~~ who owns, controls, operates or manages a community antenna television system. ~~{, except that the definition}~~

2. The term does not include:

~~{1. A telephone, telegraph}~~

(a) A telecommunication provider or electric utility regulated by the Public Utilities Commission of Nevada where the telecommunication provider or electric utility merely leases or rents to a community antenna television company wires or cables for the redistribution of television signals to or toward subscribers of that company; or

~~{2. A telephone or telegraph utility}~~



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(b) A **telecommunication provider** regulated by the Public Utilities Commission of Nevada where the ~~facility~~ **telecommunication provider** merely provides channels of communication under published tariffs filed with that Commission to a community antenna television company for the redistribution of television signals to or toward subscribers of that company.

Sec. 63. NRS 711.040 is hereby amended to read as follows:

711.040 1. "Community antenna television system" means any facility , **or any component thereof, which is:**

(a) **Located** within this State ~~which is constructed~~ ;

(b) **Constructed** in whole or in part in, on, under or over any **public right-of-way or** highway ~~for other public place and is operated~~ ; and

(c) **Operated** to perform for hire the service of:

~~(a)~~ (1) Receiving and amplifying the signals broadcast by one or more television stations or provided for public, educational or governmental purposes and redistributing those signals by wire, cable or other means of closed transmission; or

~~(b)~~ (2) Providing two-way interactive services by wire, cable or other means of closed transmission, including, without limitation, Internet services, intranet services and electronic mail,

➔ to members of the public who subscribe to the service.

2. ~~{Such a system}~~ **The term** does not include any system which serves:

(a) Fewer than 50 subscribers; or

(b) Only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of those dwellings , if the buildings are separated by not more than one public ~~street or~~ right-of-way ~~or highway~~.

3. As used in this section, "apartment dwelling" does not include a hotel, motel, condominium, town house or other similar dwelling.

Sec. 64. NRS 711.060 is hereby amended to read as follows:

711.060 "Facility" means all real property, antennae, poles, wires, cables, conduits, amplifiers, instruments, appliances, fixtures and other personal property used by a ~~community antenna television company~~ **video service provider** to provide service to its subscribers.

Sec. 65. NRS 711.074 is hereby amended to read as follows:

711.074 1. "Local government" means any city or county . ~~{which has the power to grant a franchise under NRS 711.190.}~~

2. **The term includes, without limitation:**

(a) **Any entity or agency that is directly or indirectly controlled by any city or county; and**



(b) Any entity or agency that is created by joint action or any interlocal or cooperative agreement of two or more cities or counties, or any combination thereof.

Sec. 66. NRS 711.175 is hereby amended to read as follows:

711.175 1. Except as otherwise provided in subsection 2 and NRS 318.1192 : ~~[-318.1193 and 318.1194:]~~

(a) The governing body of a county whose population is 50,000 or more, and any entity or agency that is directly or indirectly controlled by such a county, shall not sell ~~{the services of a community antenna television system}~~ **video service** to the general public.

(b) The governing body of a city whose population is 25,000 or more, and any entity or agency that is directly or indirectly controlled by such a city, shall not sell ~~{the services of a community antenna television system}~~ **video service** to the general public.

2. If the governing body of a county or city, or any entity or agency that is directly or indirectly controlled by such a county or city, was selling ~~{the services of a community antenna television system}~~ **video service** to the general public on April 1, 2003, it may continue to sell ~~{the services of a community antenna television system}~~ **video service** to the general public after that date, regardless of the population of the county or city.

Sec. 67. NRS 711.178 is hereby amended to read as follows:

711.178 1. If the governing body of a county or city is authorized pursuant to NRS 711.175 to sell ~~{the services of a community antenna television system}~~ **video service** to the general public, the governing body, and any entity or agency that is directly or indirectly controlled by the county or city, shall not construct, own, manage or operate a ~~{community antenna television system}~~ **video service network** in any area outside its territorial boundaries unless it:

(a) Obtains a ~~{franchise from the appropriate governing body pursuant to NRS 711.190}~~ **certificate of authority** for that portion of the ~~{community antenna television system}~~ **video service network** which it constructs, owns, manages or operates outside its territorial boundaries; and

(b) Complies with the same federal, state and local requirements that apply to a privately held ~~{community antenna television company}~~ **video service provider** with regard to that portion of the ~~{community antenna television system}~~ **video service network** which it constructs, owns, manages or operates outside its territorial boundaries.

2. ~~{On and after October 1, 2003, if}~~ **If** the governing body of a county or city is authorized pursuant to NRS 711.175 to sell ~~{the services of a community antenna television system}~~ **video service** to



1 the general public, the governing body, and any entity or agency that
2 is directly or indirectly controlled by the county or city, shall not
3 construct, own, manage or operate a ~~{community antenna television~~
4 ~~system}~~ **video service network** in any area within its territorial
5 boundaries which is governed by another governing body and which
6 is served by one or more privately held ~~{community antenna~~
7 ~~television companies}~~ **video service providers** unless it:

8 (a) Obtains a ~~{franchise from the other governing body pursuant~~
9 ~~to NRS 711.190 or enters into an interlocal agreement with the other~~
10 ~~governing body;}~~ **certificate of authority for that portion of the**
11 **video service network which it constructs, owns, manages or**
12 **operates within the jurisdiction of the other governing body;**

13 (b) Is required by the ~~{franchise or interlocal agreement}~~
14 **certificate of authority** to comply with the same **federal, state and**
15 **local** requirements that apply to the privately held ~~{community~~
16 ~~antenna television companies;}~~ **video service providers with regard**
17 **to that portion of the video service network which it constructs,**
18 **owns, manages or operates within the jurisdiction of the other**
19 **governing body;** and

20 (c) Is prohibited by the ~~{franchise or interlocal agreement}~~
21 **certificate of authority** from providing the services of the
22 ~~{community antenna television system;}~~ **video service provider,** free
23 of charge, to any governmental officer or employee for his personal
24 or household use.

25 **3. The provisions of this section do not require the governing**
26 **body of a county or city, or any entity or agency that is directly or**
27 **indirectly controlled by the county or city, to obtain a certificate of**
28 **authority for a service area if it is providing video service as an**
29 **incumbent cable operator which holds an unexpired local**
30 **franchise and which has elected pursuant to sections 32 and 32.5**
31 **of this act to continue to operate within that service area pursuant**
32 **to the local franchise.**

33 **Sec. 68.** NRS 711.240 is hereby amended to read as follows:

34 711.240 1. Except with respect to reasonable promotional
35 activities, a ~~{person}~~ **video service provider** shall not advertise, offer
36 to provide or provide any **video** service to subscribers ~~{of television~~
37 ~~services}~~ at a rate, including any rebate, less than the cost to the
38 ~~{company}~~ **video service provider** to provide ~~{the service which is~~
39 ~~advertised, offered or provided}~~ **that service** with the intent to:

40 (a) Impair fair competition or restrain trade among ~~{companies}~~
41 **video service providers** which provide ~~{services}~~ **video service** in the
42 same area; or

43 (b) Create a monopoly.

44 2. For the purposes of this section, "cost" means the expense of
45 doing business including, without limitation, expenses for labor,



rent, depreciation, interest, maintenance, delivery of the **video** service, franchise fees, taxes, insurance and advertising.

3. ~~{A community antenna television company may offer any telecommunication or related services which are offered in the same area by a telephone company, pursuant to chapter 704 of NRS and regulations approved by the Public Utilities Commission of Nevada for providers of similar services. A community antenna television company shall obtain a certificate of public convenience and necessity pursuant to NRS 704.330 before providing telecommunication or related services which are subject to regulation by the Public Utilities Commission of Nevada.~~

~~—4.~~ A violation of subsection 1 constitutes a prohibited act under NRS 598A.060. The Attorney General and any other person may exercise the powers conferred by that chapter to prevent, remedy or punish such a violation. The provisions of chapter 598A of NRS apply to any such violation.

Sec. 69. NRS 711.255 is hereby amended to read as follows:

711.255 1. A landlord shall not:

(a) Interfere with the receipt of service by a tenant from a ~~{community antenna television company}~~ **video service provider** or discriminate against a tenant for receiving ~~{such a company's service.}~~ **service from a video service provider.**

(b) Except as otherwise provided in subsection 3, demand or accept payment of any fee, charge or valuable consideration from a ~~{community antenna television company}~~ **video service provider** or a tenant in exchange for granting access to the ~~{community antenna television company}~~ **provider** to provide ~~{its services}~~ **service** to the tenant.

2. A ~~{community antenna television company}~~ **video service provider** which desires to provide ~~{such services}~~ **service** to a tenant shall give 30 days' written notice of that desire to the landlord before the ~~{company}~~ **provider** takes any action to provide that service. Before authorizing the receipt of such service a landlord may:

(a) Take such reasonable steps as are necessary to ensure that the safety, function and appearance of the premises and the convenience and safety of persons on the property are not adversely affected by the installation, construction, operation or maintenance of the facilities necessary to provide the service, and is entitled to be reimbursed by the ~~{community antenna television company}~~ **provider** for the reasonable expenses incurred;

(b) Require that the cost of the installation, construction, operation, maintenance or removal of the necessary facilities be borne by the ~~{community antenna television company;}~~ **provider;** and



(c) Require the ~~{community antenna television company}~~ **provider** to provide evidence that the ~~{company}~~ **provider** will indemnify the landlord for any damage caused by the installation, construction, operation, maintenance or removal of the facilities.

3. A landlord is entitled to receive reasonable compensation for any direct adverse economic effect resulting from granting access to a ~~{community antenna television company}~~ **video service provider**. There is a rebuttable presumption that the direct adverse economic effect resulting from granting access to the real property of the landlord is \$1,000 or \$1 for each dwelling unit thereon, whichever sum is greater. If a landlord intends to require the payment of such compensation in an amount exceeding that sum, the landlord shall notify the ~~{community antenna television company}~~ **provider** in writing of that intention. If the ~~{company}~~ **provider** does not receive such a notice within 20 days after the landlord is notified by the ~~{company}~~ **provider** that a tenant has requested the ~~{company}~~ **provider** to provide ~~{its services}~~ **service** to the tenant on the landlord's premises, the landlord may not require compensation for access to that tenant's dwelling unit in an amount exceeding \$1,000. If within 30 days after receiving a landlord's request for compensation in an amount exceeding \$1,000, the ~~{company}~~ **provider** has not agreed to pay the requested amount or an amount mutually acceptable to the ~~{company}~~ **provider** and the landlord, the landlord may petition a court of competent jurisdiction to set a reasonable amount of compensation for the damage of or taking of his real property. Such an action must be filed within 6 months after the date the ~~{company}~~ **provider** completes construction.

4. In establishing the amount which will constitute reasonable compensation for any damage or taking **claim** by a landlord in excess of the sum established by rebuttable presumption pursuant to subsection 3, the court shall consider:

(a) The extent to which the ~~{community antenna television company's}~~ facilities **of the video service provider** physically occupy the premises;

(b) The actual long-term damage which the ~~{company's}~~ facilities **of the video service provider** may cause to the premises;

(c) The extent to which the ~~{company's}~~ facilities **of the video service provider** would interfere with the normal use and enjoyment of the premises; and

(d) The diminution or enhancement in value of the premises resulting from the availability of the service.

~~{The court may also award to the prevailing party reasonable attorney's fees.}~~

5. The ~~{company's}~~ right **of a video service provider** to construct, install or repair its facilities and maintain its services



1 within and upon the landlord's premises is not affected or impaired
2 because the landlord requests compensation in an amount exceeding
3 the sum established by rebuttable presumption pursuant to
4 subsection 3, or files an action to assert a specific claim against the
5 ~~company.~~ **provider.**

6 6. A ~~community antenna television company~~ **video service**
7 **provider** shall not offer a special discount or other benefit to a
8 particular group of tenants as an incentive **for those tenants** to
9 request ~~the company's services,~~ **service from the provider,** unless
10 the same discount or benefit is offered generally in the county.

11 7. ~~The community antenna television company and the~~ **A**
12 **video service provider and a** landlord shall negotiate in good faith
13 for the purchase of the landlord's existing cable facilities rather than
14 for the construction of new facilities on the premises.

15 8. As used in this section, "landlord" means an owner of real
16 property, or his authorized representative, who provides a dwelling
17 unit on the real property for occupancy by another for valuable
18 consideration. The term includes, without limitation, the lessor of a
19 mobile home lot and the lessor or operator of a mobile home park.

20 **Sec. 70.** NRS 711.265 is hereby amended to read as follows:

21 711.265 1. Any person who:

22 (a) By the attachment of a ground wire, or by any other
23 contrivance, willfully destroys the insulation of a
24 ~~telecommunications line of a community antenna television~~
25 ~~company,~~ **wire, cable, conduit, line or similar facility of a video**
26 **service provider** or interrupts the transmission of the electric current
27 through ~~the line;~~ **such a wire, cable, conduit, line or similar**
28 **facility;**

29 (b) Willfully interferes with the use of ~~any such line,~~ **such a**
30 **wire, cable, conduit, line or similar facility** or obstructs or
31 postpones the transmission of any message **or signal** over ~~the line;~~
32 **such a wire, cable, conduit, line or similar facility;** or

33 (c) Procures or advises any such injury, interference or
34 obstruction,

35 ➤ is guilty of a public offense, as prescribed in NRS 193.155,
36 proportionate to the value of any property damaged, altered,
37 removed or destroyed and in no event less than a misdemeanor.

38 2. Any person who violates the provisions of subsection 1 is, in
39 addition to the penalty set forth in that subsection, liable to the
40 ~~community antenna television company~~ **video service provider**
41 injured by such conduct in a civil action for all damages occasioned
42 thereby.

43 **Sec. 71.** NRS 711.270 is hereby amended to read as follows:

44 711.270 1. It is unlawful for a person knowingly , ~~and~~
45 the intent to intercept or receive a program or other service provided



1 by a ~~{community antenna television company;}~~ **video service**
2 **provider and** without the authorization of the ~~{company;}~~ **provider,**
3 to:

4 (a) Make a connection or attach a device to a line or other
5 ~~{component of a community antenna television company;}~~ **facility**
6 **of the provider;**

7 (b) Purchase or possess a device or kit designed to intercept or
8 receive a program or other service provided by the ~~{community~~
9 ~~antenna television company;}~~ **provider;**

10 (c) Make or maintain a modification to a device installed by or
11 with the authorization of ~~{a community antenna television company}~~
12 **the provider** to intercept or receive a program or other service
13 provided by the ~~{community antenna television company;}~~ **provider;**
14 or

15 (d) Manufacture, import, distribute, advertise, sell, lease, offer to
16 sell or lease, or possess with the intent to sell or lease a device
17 designed to decode, descramble, intercept or otherwise make
18 intelligible a signal encoded by ~~{a community antenna television~~
19 ~~company;}~~ **the provider.**

20 2. Unless a greater penalty is provided in NRS 711.265:

21 (a) Except as otherwise provided in paragraph (b), a person who
22 violates paragraph (a), (b) or (c) of subsection 1 is guilty of a
23 misdemeanor.

24 (b) A person who violates paragraph (a), (b) or (c) of subsection
25 1 for commercial advantage, whether direct or indirect, is guilty of a
26 gross misdemeanor.

27 (c) A person who violates paragraph (d) of subsection 1:

28 (1) If the violation involves nine or fewer devices, is guilty
29 of a gross misdemeanor.

30 (2) If the violation involves 10 or more devices, is guilty of a
31 category D felony and shall be punished as provided in
32 NRS 193.130.

33 **Sec. 72.** NRS 711.280 is hereby amended to read as follows:

34 711.280 1. A person who violates paragraph (a), (b) or (c) of
35 subsection 1 of NRS 711.270 is, in addition to being criminally
36 liable pursuant to NRS 711.270, civilly liable to the ~~{community~~
37 ~~antenna television company;}~~ **video service provider** injured by the
38 conduct for \$3,500 or three times any actual damages incurred by
39 the company, whichever is greater, and reasonable attorney's fees.

40 2. A person who violates paragraph (d) of subsection 1 of NRS
41 711.270 is, in addition to being criminally liable pursuant to NRS
42 711.270, civilly liable to the ~~{community antenna television~~
43 ~~company;}~~ **video service provider** injured by the conduct for \$5,000
44 or three times any actual damages incurred by the company,
45 whichever is greater, and reasonable attorney's fees.



* A B 5 2 6 R 3 *

3. In any action brought pursuant to this section, proof that any of the acts prohibited in subsection 1 were committed on or about the premises occupied by the defendant is prima facie evidence that such acts were committed by the defendant.

~~{An owner or operator of a community antenna television company}~~ **A video service provider** may bring an action to enjoin any violation of NRS 711.270.

Sec. 73. NRS 37.010 is hereby amended to read as follows:

37.010 Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public purposes:

1. Federal activities. All public purposes authorized by the Government of the United States.

2. State activities. Public buildings and grounds for the use of the State, the Nevada System of Higher Education and all other public purposes authorized by the Legislature.

3. County, city, town and school district activities. Public buildings and grounds for the use of any county, incorporated city or town, or school district, reservoirs, water rights, canals, aqueducts, flumes, ditches or pipes for conducting water for the use of the inhabitants of any county, incorporated city or town, for draining any county, incorporated city or town, for raising the banks of streams, removing obstructions therefrom, and widening, deepening or straightening their channels, for roads, streets and alleys, and all other public purposes for the benefit of any county, incorporated city or town, or the inhabitants thereof.

4. Bridges, toll roads, railroads, street railways and similar uses. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation.

5. Ditches, canals, aqueducts for smelting, domestic uses, irrigation and reclamation. Reservoirs, dams, water gates, canals, ditches, flumes, tunnels, aqueducts and pipes for supplying persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic and other uses, for irrigating purposes, for draining and reclaiming lands, or for floating logs and lumber on streams not navigable.

6. Mining, smelting and related activities. Mining, smelting and related activities as follows:

(a) Mining and related activities, which are recognized as the paramount interest of this State.

(b) Roads, railroads, tramways, tunnels, ditches, flumes, pipes, reservoirs, dams, water gates, canals, aqueducts and dumping places to facilitate the milling, smelting or other reduction of ores, the



1 working, reclamation or dewatering of mines, and for all mining
2 purposes, outlets, natural or otherwise, for the deposit or conduct of
3 tailings, refuse, or water from mills, smelters, or other work for the
4 reduction of ores from mines, mill dams, pipelines, tanks or
5 reservoirs for natural gas or oil, an occupancy in common by the
6 owners or possessors of different mines, mills, smelters or other
7 places for the reduction of ores, or any place for the flow, deposit or
8 conduct of tailings or refuse matter and the necessary land upon
9 which to erect smelters and to operate them successfully, including
10 the deposit of fine flue dust, fumes and smoke.

11 7. Byroads. Byroads leading from highways to residences and
12 farms.

13 8. Public utilities. Lines for telegraph, telephone, electric light
14 and electric power and sites for plants for electric light and power.

15 9. Sewerage. Sewerage of any city, town, settlement of not less
16 than 10 families or any public building belonging to the State or
17 college or university.

18 10. Water for generation and transmission of electricity.
19 Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes for
20 supplying and storing water for the operation of machinery to
21 generate and transmit electricity for power, light or heat.

22 11. Cemeteries, public parks. Cemeteries or public parks.

23 12. Pipelines of beet sugar industry. Pipelines to conduct any
24 liquids connected with the manufacture of beet sugar.

25 13. Pipelines for petroleum products, natural gas. Pipelines for
26 the transportation of crude petroleum, petroleum products or natural
27 gas, whether interstate or intrastate.

28 14. Aviation. Airports, facilities for air navigation and aerial
29 rights-of-way.

30 15. Monorails. Monorails and any other overhead or
31 underground system used for public transportation.

32 16. ~~{Community antenna television companies. Community~~
33 ~~antenna television companies which have been granted a franchise~~
34 ~~from the governing body of the jurisdictions in which they provide~~
35 ~~services.}~~ **Video service providers. Video service providers that are**
36 **authorized pursuant to chapter 711 of NRS to operate a video**
37 **service network.** The exercise of the power of eminent domain may
38 include the right to use the wires, conduits, cables or poles of any
39 public utility if:

40 (a) It creates no substantial detriment to the service provided by
41 the utility;

42 (b) It causes no irreparable injury to the utility; and

43 (c) The Public Utilities Commission of Nevada, after giving
44 notice and affording a hearing to all persons affected by the



1 proposed use of the wires, conduits, cables or poles, has found that it
2 is in the public interest.

3 17. Redevelopment. The acquisition of property pursuant to
4 NRS 279.382 to 279.685, inclusive.

5 **Sec. 74.** NRS 118B.0195 is hereby amended to read as
6 follows:

7 118B.0195 "Utility" includes ~~the~~ :

8 **1. A public utility which provides:**

9 ~~1.1~~ (a) Electricity;

10 ~~1.2~~ (b) Natural gas;

11 ~~1.3~~ (c) Liquefied petroleum gas;

12 ~~1.4~~ ~~Cable television;~~

13 ~~5.1~~ (d) Sewer services;

14 ~~1.6~~ (e) Garbage collection; or

15 ~~1.7~~ (f) Water.

16 **2. A video service provider which provides video service**
17 **pursuant to chapter 711 of NRS.**

18 **Sec. 75.** NRS 205.0829 is hereby amended to read as follows:

19 205.0829 "Services" includes labor, professional services,
20 transportation, cable television ~~the~~ **or other video service**, telephone,
21 gas or electricity services, accommodations in hotels, restaurants,
22 leased premises or elsewhere, admissions to exhibitions and the use
23 of vehicles or other movable property.

24 **Sec. 76.** NRS 205.4743 is hereby amended to read as follows:

25 205.4743 1. "Information service" means a service that is
26 designed or has the capability to generate, process, store, retrieve,
27 convey, emit, transmit, receive, relay, record or reproduce any data,
28 information, image, program, signal or sound by means of any
29 component, device, equipment, system or network, including,
30 without limitation, by means of:

31 (a) A computer, computer system, computer network, modem or
32 scanner.

33 (b) A telephone, cellular phone, satellite phone, pager, personal
34 communications device or facsimile machine.

35 (c) Any type of transmitter or receiver.

36 (d) Any other component, device, equipment, system or network
37 that uses analog, digital, electronic, electromagnetic, magnetic or
38 optical technology.

39 2. The term does not include ~~the community antenna television~~
40 ~~company.~~ **video service**, as defined in ~~NRS 711.030.~~ **section 25 of**
41 **this act.**

42 **Sec. 76.3.** NRS 228.340 is hereby amended to read as follows:

43 228.340 1. Except as otherwise provided by NRS 598A.260,
44 all money collected by the Bureau of Consumer Protection pursuant
45 to NRS 704.033 **and chapter 711 of NRS** and **pursuant** to those



1 provisions *of NRS* relating to private investigators and unfair trade
2 practices must be deposited with the State Treasurer for credit to the
3 Account for the Bureau of Consumer Protection.

4 2. Money in the Account may be used only to defray the costs
5 of maintaining the Office of the Consumer's Advocate and for
6 carrying out the provisions of NRS 228.300 to 228.390, inclusive.

7 3. All claims against the Account must be paid as other claims
8 against the State are paid.

9 **Sec. 76.5.** NRS 228.380 is hereby amended to read as follows:

10 228.380 1. Except as otherwise provided in this section, the
11 Consumer's Advocate may exercise the power of the Attorney
12 General in areas of consumer protection, including, but not limited
13 to, enforcement of chapters 90, 597, 598, 598A, 598B, 598C ~~and~~,
14 599B *and 711* of NRS.

15 2. The Consumer's Advocate may not exercise any powers to
16 enforce any criminal statute set forth in ~~chapters~~ :

17 (a) *Chapters* 90, 597, 598, 598A, 598B, 598C or 599B of NRS
18 for any transaction or activity that involves a proceeding before the
19 Public Utilities Commission of Nevada if the Consumer's Advocate
20 is participating in that proceeding as a real party in interest on behalf
21 of the customers or a class of customers of utilities ~~;~~

22 ~~—2.1 ; or~~

23 (b) *Chapter 711 of NRS.*

24 3. The Consumer's Advocate may expend revenues derived
25 from NRS 704.033 only for activities directly related to the
26 protection of customers of public utilities.

27 ~~3.1~~ 4. The powers of the Consumer's Advocate do not extend
28 to proceedings before the Public Utilities Commission of Nevada
29 directly relating to discretionary or competitive telecommunication
30 services.

31 **Sec. 77.** NRS 244.186 is hereby amended to read as follows:

32 244.186 1. If the governing body of a county is authorized
33 pursuant to NRS 711.175 to sell video ~~programming services~~
34 *service* to the general public over a ~~community antenna television~~
35 *system,* *video service network*, the governing body, and any entity
36 or agency that is directly or indirectly controlled by the county, shall
37 not do any of the following:

38 (a) Sell such video ~~programming services~~ *service* at a price
39 that is less than the actual cost of the video ~~programming services~~
40 *service* or sell a bundle of services containing such video
41 ~~programming services~~ *service* at a price that is less than the actual
42 cost of the bundle of services.

43 (b) Use any money from the county general fund for the
44 provision of such video ~~programming services~~ *service* over its
45 ~~community antenna television system,~~ *video service network.*



(c) Use its rights-of-way, its property or any special power it may possess by virtue of its status as a government or a government-owned utility to:

(1) Create a preference or advantage for its ~~{community antenna television system;}~~ **video service network**; or

(2) Impose any discriminatory burden on any privately held ~~{community antenna television company.}~~ **video service provider**.

2. The provisions of this section must be enforced in the manner set forth in paragraph (c) of subsection 4 of NRS 354.624 and paragraph (c) of subsection 5 of NRS 354.624.

3. The provisions of this section do not create an exclusive remedy and do not abrogate or limit any other action or remedy that is available to the governing body or a privately held ~~{community antenna television company}~~ **video service provider** pursuant to any other statute or the common law.

4. As used in this section:

(a) ~~["Community antenna television company"]~~ **"Video service"** has the meaning ascribed to it in ~~[NRS 711.030.~~

~~—(b) "Community antenna television system" has the meaning ascribed to it in NRS 711.040.~~

~~—(c) "Video programming services" means services which are provided over a community antenna television system and which contain:~~

~~—(1) Programming provided by a television broadcast station;~~
~~or~~

~~—(2) Programming that is generally considered comparable to programming provided by a television broadcast station.]~~ **section 25 of this act.**

(b) "Video service network" has the meaning ascribed to it in section 26 of this act.

(c) "Video service provider" has the meaning ascribed to it in section 27 of this act.

Sec. 78. NRS 271.204 is hereby amended to read as follows:

271.204 "Service facilities" means any works or improvements used or useful in providing:

1. Electric or communication service; or

2. Service from a ~~{community antenna television system}~~ **video service network**, as that term is defined in ~~[NRS 711.040,]~~ **section 26 of this act,**

➤ including, but not limited to, poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances.



Sec. 79. NRS 271.2045 is hereby amended to read as follows:
271.2045 “Service provider” means:

1. A person or corporation subject to the jurisdiction of the Public Utilities Commission of Nevada that provides electric or communication service to the public; and

2. A ~~{community antenna television company}~~ **video service provider**, as that term is defined in ~~[NRS 711.030]~~ **section 27 of this act**, that provides service from a ~~{community antenna television system,}~~ **video service network**,

↳ by means of service facilities.

Sec. 80. NRS 271.850 is hereby amended to read as follows:

271.850 1. The service facilities within the boundaries of each lot within a district to finance an underground conversion project established pursuant to NRS 271.800 must be placed underground at the same time as or after the underground system in private easements and public places is placed underground. The service provider involved, directly or through a contractor, shall, in accordance with the rules and regulations of the service provider, but subject to the regulations of the Public Utilities Commission of Nevada and any other applicable laws, ordinances, rules or regulations of the municipality or any other public agency under the police power, convert to underground its facilities on any such lot:

(a) For service facilities that provide electric service, up to the service entrance.

(b) For service facilities that provide communication service or service from a ~~{community antenna television system}~~ **video service network**, as that term is defined in ~~[NRS 711.040,]~~ **section 26 of this act**, up to the connection point within the house or structure.

2. All costs or expenses of conversion must be included in the cost on which the cost of the underground conversion for that property is calculated.

3. As used in this section, “lot” includes any portion, piece or parcel of land.

Sec. 81. NRS 278.329 is hereby amended to read as follows:

278.329 A governing body or its authorized representative may relieve a person who proposes to divide land pursuant to NRS 278.360 to 278.460, inclusive, or 278.471 to 278.4725, inclusive, from the requirement to dedicate easements to public utilities that provide gas, electric, telecommunications, water and sewer services and any ~~{franchised community antenna television companies}~~ **video service providers** pursuant to paragraph (d) or (e) of subsection 9 of NRS 278.372 or paragraph (c) or (d) of subsection 4 of NRS 278.472 if the person demonstrates to the public body or its authorized representative that there is not an essential nexus to the public purpose for the dedication and the dedication is not roughly



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proportional in nature and extent to the impact of the proposed development.

Sec. 82. NRS 278.372 is hereby amended to read as follows:

278.372 1. The final map must be clearly and legibly drawn in permanent black ink upon good tracing cloth or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the final map with permanent black ink.

2. The size of each sheet of the final map must be 24 by 32 inches. A marginal line must be drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom, and right edges, and of 2 inches at the left edge along the 24-inch dimension.

3. The scale of the final map must be large enough to show all details clearly. The final map must have a sufficient number of sheets to accomplish this end.

4. Each sheet of the final map must indicate its particular number, the total number of sheets in the final map and its relation to each adjoining sheet.

5. The final map must show all surveyed and mathematical information and data necessary to locate all monuments and to locate and retrace all interior and exterior boundary lines appearing thereon, including the bearings and distances of straight lines, central angle, radii and arc length for all curves and such information as may be necessary to determine the location of the centers of curves.

6. Each lot must be numbered or lettered.

7. Each street must be named and each block may be numbered or lettered.

8. The exterior boundary of the land included within the subdivision must be indicated by graphic border.

9. The final map must show:

(a) The definite location of the subdivision, particularly its relation to surrounding surveys.

(b) The area of each lot and the total area of the land in the subdivision in the following manner:

(1) In acres, calculated to the nearest one-hundredth of an acre, if the area is 2 acres or more; or

(2) In square feet if the area is less than 2 acres.

(c) Any roads or easements of access which the owner intends to offer for dedication.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any ~~community antenna television companies that~~



1 ~~have a franchise~~ **video service providers that are authorized**
2 **pursuant to chapter 711 of NRS** to operate a ~~community antenna~~
3 ~~television system~~ **video service network** in that area.

4 (e) Except as otherwise provided in NRS 278.329, an easement
5 for public utilities that provide water and sewer services.

6 10. The final map for a condominium must also indicate, for
7 the purpose of assessing taxes, whether any garage units, parking
8 spaces or storage units may be conveyed separately from the units
9 within the condominium or are parceled separately from those units.
10 As used in this subsection, "condominium" has the meaning
11 ascribed to it in NRS 116.027.

12 11. The final map must also satisfy any additional survey and
13 map requirements, including the delineation of Nevada state plane
14 coordinates established pursuant to chapter 327 of NRS, for any
15 corner of the subdivision or any other point prescribed by the local
16 ordinance.

17 **Sec. 83.** NRS 278.374 is hereby amended to read as follows:

18 278.374 1. Except as otherwise provided in subsection 2, a
19 final map presented for filing must include a certificate signed and
20 acknowledged, in the manner provided in NRS 240.1665 or
21 240.167, by each person who is an owner of the land:

22 (a) Consenting to the preparation and recordation of the final
23 map.

24 (b) Offering for dedication that part of the land which the person
25 wishes to dedicate for public use, subject to any reservation
26 contained therein.

27 (c) Reserving any parcel from dedication.

28 (d) Granting any permanent easement for utility or ~~community~~
29 ~~antenna television cable~~ **video service network** installation or
30 access, as designated on the final map, together with a statement
31 approving such easement, signed by the public utility, ~~community~~
32 ~~antenna television company~~ **video service provider** or person in
33 whose favor the easement is created or whose services are required.

34 2. If the map presented for filing is an amended map of a
35 common-interest community, the certificate need only be signed and
36 acknowledged by a person authorized to record the map under
37 chapter 116 of NRS.

38 3. A final map of a common-interest community presented for
39 recording and, if required by local ordinance, a final map of any
40 other subdivision presented for recording must include:

41 (a) A report from a title company in which the title company
42 certifies that it has issued a guarantee for the benefit of the local
43 government which lists the names of:

44 (1) Each owner of record of the land to be divided; and



(2) Each holder of record of a security interest in the land to be divided, if the security interest was created by a mortgage or a deed of trust.

➡ The guarantee accompanying a final map of a common-interest community must also show that there are no liens of record against the common-interest community or any part thereof for delinquent state, county, municipal, federal or local taxes or assessments collected as taxes or special assessments.

(b) The written consent of each holder of record of a security interest listed pursuant to subparagraph (2) of paragraph (a), to the preparation and recordation of the final map. A holder of record may consent by signing:

(1) The final map; or

(2) A separate document that is filed with the final map and declares his consent to the division of land.

4. For the purpose of this section, the following shall be deemed not to be an interest in land:

(a) A lien for taxes or special assessments.

(b) A trust interest under a bond indenture.

5. As used in this section, "guarantee" means a guarantee of the type filed with the Commissioner of Insurance pursuant to paragraph (e) of subsection 1 of NRS 692A.120.

Sec. 84. NRS 278.4713 is hereby amended to read as follows:

278.4713 1. Unless the filing of a tentative map is waived, a person who proposes to make a division of land pursuant to NRS 278.471 to 278.4725, inclusive, must first:

(a) File a tentative map for the area in which the land is located with the planning commission or its designated representative or with the clerk of the governing body if there is no planning commission; and

(b) Pay a filing fee of no more than \$750 set by the governing body.

2. This map must be:

(a) Entitled "Tentative Map of Division into Large Parcels"; and

(b) Prepared and certified by a professional land surveyor.

3. This map must show:

(a) The approximate, calculated or actual acreage of each lot and the total acreage of the land to be divided.

(b) Any roads or easements of access which exist, are proposed in the applicable master plan or are proposed by the person who intends to divide the land.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any ~~community antenna television companies that have a franchise~~ **video service providers that are authorized**



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1 pursuant to chapter 711 of NRS to operate a ~~community antenna~~
2 ~~television system~~ video service network in that area.

3 (d) Except as otherwise provided in NRS 278.329, an easement
4 for public utilities that provide water and sewer services.

5 (e) Any existing easements for irrigation or drainage, and any
6 normally continuously flowing watercourses.

7 (f) An indication of any existing road or easement which the
8 owner does not intend to dedicate.

9 (g) The name and address of the owner of the land.

10 **Sec. 85.** NRS 278.472 is hereby amended to read as follows:

11 278.472 1. After the planning commission or the governing
12 body or its authorized representative has approved the tentative map
13 or waived the requirement of its filing, or 60 days after the date of
14 its filing, whichever is earlier, the person who proposes to divide the
15 land may file a final map of the division with the governing body or
16 its authorized representative or, if authorized by the governing body,
17 with the planning commission. The map must be accompanied by a
18 written statement signed by the treasurer of the county in which the
19 land to be divided is located indicating that all property taxes on the
20 land for the fiscal year have been paid.

21 2. This map must be:

22 (a) Entitled "Map of Division into Large Parcels."

23 (b) Filed with the governing body or its authorized
24 representative or, if authorized by the governing body, with the
25 planning commission not later than 1 year after the date that
26 the tentative map was first filed with the planning commission or the
27 governing body or its authorized representative or that the
28 requirement of its filing was waived.

29 (c) Prepared by a professional land surveyor.

30 (d) Based upon an actual survey by the preparer and show the
31 date of the survey and contain the certificate of the surveyor
32 required pursuant to NRS 278.375.

33 (e) Clearly and legibly drawn in permanent black ink upon good
34 tracing cloth or produced by the use of other materials of a
35 permanent nature generally used for this purpose in the engineering
36 profession. Affidavits, certificates and acknowledgments must be
37 legibly stamped or printed upon the map with permanent black ink.

38 (f) Twenty-four by 32 inches in size with a marginal line drawn
39 completely around each sheet, leaving an entirely blank margin of 1
40 inch at the top, bottom, and right edges, and of 2 inches at the left
41 edge along the 24-inch dimension.

42 (g) Of scale large enough to show clearly all details.

43 3. The particular number of the sheet and the total number of
44 sheets comprising the map must be stated on each of the sheets, and
45 its relation to each adjoining sheet must be clearly shown.



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1 4. This map must show and define:

2 (a) All subdivision lots by the number and actual acreage of
3 each lot.

4 (b) Any roads or easements of access which exist and which the
5 owner intends to offer for dedication, any roads or easements of
6 access which are shown on the applicable master plan and any roads
7 or easements of access which are specially required by the planning
8 commission or the governing body or its authorized representative.

9 (c) Except as otherwise provided in NRS 278.329, an easement
10 for public utilities that provide gas, electric and telecommunications
11 services and for any ~~community antenna television companies that~~
12 ~~have a franchise~~ **video service providers that are authorized**
13 **pursuant to chapter 711 of NRS** to operate a ~~community antenna~~
14 ~~television system~~ **video service network** in that area.

15 (d) Except as otherwise provided in NRS 278.329, an easement
16 for public utilities that provide water and sewer services.

17 (e) Any existing easements for irrigation or drainage, and any
18 normally continuously flowing watercourses.

19 **Sec. 86.** NRS 318.1192 is hereby amended to read as follows:

20 318.1192 In the case of a district created wholly or in part for
21 acquiring television maintenance facilities, the board shall have
22 power to:

23 1. Acquire television broadcast, transmission and relay
24 improvements ~~H~~ **and construct and operate a video service**
25 **network pursuant to chapter 711 of NRS.**

26 2. Levy special assessments against specially benefited real
27 property on which are located television receivers operated within
28 the district and able to receive television broadcasts supplied by the
29 district.

30 3. Fix tolls, rates and other service or use charges for services
31 furnished by the district or facilities of the district, including,
32 without limitation, any one, all or any combination of the following:

33 (a) Flat rate charges;

34 (b) Charges classified by the number of receivers;

35 (c) Charges classified by the value of property served by
36 television receivers;

37 (d) Charges classified by the character of the property served by
38 television receivers;

39 (e) Minimum charges;

40 (f) Stand-by charges; or

41 (g) Other charges based on the availability of service.

42 4. The district shall not have the power in connection with the
43 basic power stated in this section to borrow money which loan is
44 evidenced by the issuance of any general obligation bonds or other
45 general obligations of the district.



1 **Sec. 87.** NRS 354.59881 is hereby amended to read as
2 follows:

3 354.59881 As used in NRS 354.59881 to 354.59889, inclusive,
4 unless the context otherwise requires, the words and terms defined
5 in NRS ~~[354.598811]~~ **354.598812** to 354.598818, inclusive, have
6 the meanings ascribed to them in those sections.

7 **Sec. 88.** NRS 354.598814 is hereby amended to read as
8 follows:

9 354.598814 “Fee” means a charge imposed by a city or county
10 upon a public utility for a business license, franchise or right-of-way
11 over streets or other public areas, except ~~‡~~:

12 ~~—1. Any~~ **any** charge paid pursuant to the provisions of NRS
13 709.110, 709.230 or 709.270. ~~‡; or~~

14 ~~—2. A term or condition of a franchise granted by:~~

15 ~~—(a) A county whose population is 400,000 or more, or by an~~
16 ~~incorporated city that is located in whole or in part within such a~~
17 ~~county, that requires a community antenna television company to~~
18 ~~provide channels for public, educational or governmental access.~~

19 ~~—(b) A county or an incorporated city not specified in paragraph~~
20 ~~(a) that requires a community antenna television company to~~
21 ~~provide channels, facilities or equipment for public, educational or~~
22 ~~governmental access.]~~

23 **Sec. 89.** NRS 354.598817 is hereby amended to read as
24 follows:

25 354.598817 **1.** “Public utility” includes ~~‡~~:

26 ~~—1. A~~ **a** person or local government that:

27 (a) Provides electric energy or gas, whether or not the person or
28 local government is subject to regulation by the Public Utilities
29 Commission of Nevada;

30 (b) Is a telecommunication carrier as that term is defined in 47
31 U.S.C. § 153 on July 16, 1997, if the person or local government
32 holds a certificate of public convenience and necessity issued by the
33 Public Utilities Commission of Nevada and derives intrastate
34 revenue from the provision of telecommunication service to retail
35 customers; or

36 (c) Sells or resells personal wireless services.

37 **2.** ~~[A community antenna television company as that term is]~~
38 **The term does not include a video service provider, as** defined in
39 ~~[NRS 711.030.]~~ **section 27 of this act.**

40 **Sec. 90.** NRS 354.598818 is hereby amended to read as
41 follows:

42 354.598818 “Revenue” does not include:

43 1. Any proceeds from the interstate sale of natural gas to a
44 provider of electric energy that holds a certificate of public



1 convenience and necessity issued by the Public Utilities
2 Commission of Nevada; **or**

3 2. Any revenue of a provider of a telecommunication service
4 other than intrastate revenue that the provider collects from retail
5 customers. ~~}; or~~

6 ~~3. The amount deducted from the gross revenue of a~~
7 ~~community antenna television company pursuant to paragraph (b) of~~
8 ~~subsection 2 of NRS 711.200.]~~

9 **Sec. 91.** NRS 354.5989 is hereby amended to read as follows:

10 354.5989 1. A local government shall not increase any fee
11 for a business license or adopt a fee for a business license issued for
12 revenue or regulation, or both, except as permitted by this section.
13 This prohibition does not apply to fees:

14 (a) Imposed by hospitals, county airports, airport authorities,
15 convention authorities, the Las Vegas Valley Water District or the
16 Clark County Sanitation District;

17 (b) Imposed on public utilities for the privilege of doing
18 business pursuant to a franchise;

19 (c) *Imposed in compliance with the provisions of section 46 of*
20 *this act on video service providers for the privilege of doing*
21 *business pursuant to chapter 711 of NRS;*

22 (d) For business licenses which are calculated as a fraction or
23 percentage of the gross revenue of the business;

24 ~~(d)~~ (e) Imposed pursuant to NRS 244.348, 268.0973, 268.821
25 or 269.182; or

26 ~~(e)~~ (f) Regulated pursuant to NRS 354.59881 to 354.59889,
27 inclusive.

28 2. The amount of revenue the local government derives or is
29 allowed to derive, whichever is greater, from all fees for business
30 licenses except:

31 (a) The fees excluded by subsection 1, for the fiscal year ended
32 on June 30, 1991; and

33 (b) The fees collected for a particular type of business during the
34 immediately preceding fiscal year ending on June 30 that a local
35 government will not collect in the next subsequent fiscal year,

36 ➤ is the base from which the maximum allowable revenue from
37 such fees must be calculated for the next subsequent fiscal year. To
38 the base must be added the sum of the amounts respectively equal to
39 the product of the base multiplied by the percentage increase in the
40 population of the local government added to the percentage increase
41 in the Consumer Price Index for the year ending on December 31
42 next preceding the year for which the limit is being calculated. The
43 amount so determined becomes the base for computing the allowed
44 increase for each subsequent year.



3. A local government may not increase any fee for a business license which is calculated as a fraction or percentage of the gross revenue of the business if its total revenues from such fees have increased during the preceding fiscal year by more than the increase in the Consumer Price Index during that preceding calendar year. The provisions of this subsection do not apply to a fee ~~imposed~~:

(a) Imposed in compliance with the provisions of section 46 of this act on video service providers for the privilege of doing business pursuant to chapter 711 of NRS;

(b) Imposed pursuant to NRS 244.348, 268.0973, 268.821 or 269.182 ~~[-or-regulated-]; or~~

(c) Regulated pursuant to NRS 354.59881 to 354.59889, inclusive.

4. A local government may submit an application to increase its revenue from fees for business licenses beyond the amount allowable pursuant to this section to the Nevada Tax Commission, which may grant the application only if it finds that the rate of a business license of the local government is substantially below that of other local governments in the State.

5. The provisions of this section apply to a business license regardless of the fund to which the revenue from it is assigned. An ordinance or resolution enacted by a local government in violation of the provisions of this section is void.

6. As used in this section, “fee for a business license” does not include a tax imposed on the revenues from the rental of transient lodging.

Sec. 92. NRS 360.825 is hereby amended to read as follows:

360.825 1. Except as otherwise provided in this section, if on or after July 1, 2003, a local government acquires from another entity a public utility that provides electric service, natural gas service, telecommunications service or community antenna television, *cable television or other video* service:

(a) The local government shall make payments in lieu of and equal to all state and local taxes and franchise fees from which the local government is exempt but for which the public utility would be liable if the public utility was not owned by a governmental entity; and

(b) The Nevada Tax Commission shall, solely for the purpose set forth in this paragraph, annually determine and apportion the assessed valuation of the property of the public utility. For the purpose of calculating any allocation or apportionment of money for distribution among local governments pursuant to a formula required by state law which is based partially or entirely on the assessed valuation of taxable property:



(1) The property of the public utility shall be deemed to constitute taxable property to the same extent as if the public utility was not owned by a governmental entity; and

(2) To the extent that the property of the public utility is deemed to constitute taxable property pursuant to this paragraph:

(I) The assessed valuation of that property must be included in that calculation as determined and apportioned by the Nevada Tax Commission pursuant to this paragraph; and

(II) The payments required by paragraph (a) in lieu of any taxes that would otherwise be required on the basis of the assessed valuation of that property shall be deemed to constitute payments of those taxes.

2. The payments in lieu of taxes and franchise fees required by subsection 1 are due at the same time and must be collected, accounted for and distributed in the same manner as those taxes and franchise fees would be due, collected, accounted for and distributed if the public utility was not owned by a governmental entity, except that no lien attaches upon any property or money of the local government by virtue of any failure to make all or any part of those payments. The local government may contest the validity and amount of any payment in lieu of a tax or franchise fee to the same extent as if that payment was a payment of the tax or franchise fee itself. The payments in lieu of taxes and franchise fees must be reduced if and to the extent that such a contest is successful.

3. The provisions of this section do not:

(a) Apply to the acquisition by a local government of a public utility owned by another governmental entity, except a public utility owned by another local government for which any payments in lieu of state or local taxes or franchise fees was required before its acquisition as provided in this section.

(b) Require a local government to make any payments in lieu of taxes or franchise fees to the extent that the making of those payments would cause a deficiency in the money available to the local government to make required payments of principal of, premium, if any, or interest on any bonds or other securities issued to finance the acquisition of that public utility or to make required payments to any funds established under the proceedings under which those bonds or other securities were issued.

(c) Require a county to duplicate any payments in lieu of taxes required pursuant to NRS 244A.755.

Sec. 93. NRS 360.830 is hereby amended to read as follows:

360.830 1. Except as otherwise provided in this section, if on or after July 1, 2003, a local government:

(a) Acquires from another entity a public utility that provides water service or sewer service; or



(b) Expands facilities for the provision of water service, sewer service, electric service, natural gas service, telecommunications service or community antenna television, *cable television or other video* service, and the expansion results in the local government serving additional retail customers who were, before the expansion, retail customers of a public utility which provided that service, the local government shall enter into an interlocal agreement with each affected local government to compensate the affected local government each fiscal year, as nearly as practicable, for the amount of any money from state and local taxes and franchise fees and from payments in lieu of those taxes and franchise fees, and for any compensation from a local government pursuant to this section, the affected local government would be entitled to receive but will not receive because of the acquisition of that public utility or expansion of those facilities as provided in this section.

2. An affected local government may waive any or all of the compensation to which it may be entitled pursuant to subsection 1.

3. The provisions of this section do not require a:

(a) Local government to provide any compensation to an affected local government to the extent that the provision of that compensation would cause a deficiency in the money available to the local government to make required payments of principal of, premium, if any, or interest on any bonds or other securities issued to finance the acquisition of that public utility or expansion of those facilities, or to make required payments to any funds established under the proceedings under which those bonds or other securities were issued.

(b) County to duplicate any compensation an affected local government receives from any payments in lieu of taxes required pursuant to NRS 244A.755.

Sec. 94. NRS 361.320 is hereby amended to read as follows:

361.320 1. At the regular session of the Nevada Tax Commission commencing on the first Monday in October of each year, the Nevada Tax Commission shall examine the reports filed pursuant to NRS 361.318 and establish the valuation for assessment purposes of any property of an interstate or intercounty nature used directly in the operation of all interstate or intercounty railroad, sleeping car, private car, natural gas transmission and distribution, water, telephone, scheduled and unscheduled air transport, electric light and power companies, and the property of all railway express companies operating on any common or contract carrier in this State. This valuation must not include the value of vehicles as defined in NRS 371.020.

2. Except as otherwise provided in subsections 3, 4 and 7 and NRS 361.323, the Nevada Tax Commission shall establish and fix



1 the valuation of all physical property used directly in the operation
2 of any such business of any such company in this State, as a
3 collective unit. If the company is operating in more than one county,
4 on establishing the unit valuation for the collective property, the
5 Nevada Tax Commission shall then determine the total aggregate
6 mileage operated within the State and within its several counties and
7 apportion the mileage upon a mile-unit valuation basis. The number
8 of miles apportioned to any county are subject to assessment in that
9 county according to the mile-unit valuation established by the
10 Nevada Tax Commission.

11 3. After establishing the valuation, as a collective unit, of a
12 public utility which generates, transmits or distributes electricity, the
13 Nevada Tax Commission shall segregate the value of any project in
14 this State for the generation of electricity which is not yet put to use.
15 This value must be assessed in the county where the project is
16 located and must be taxed at the same rate as other property.

17 4. After establishing the valuation, as a collective unit, of an
18 electric light and power company that places a facility into operation
19 on or after July 1, 2003, in a county whose population is less than
20 100,000, the Nevada Tax Commission shall segregate the value of
21 the facility from the collective unit. This value must be assessed in
22 the county where the facility is located and taxed at the same rate as
23 other property.

24 5. The Nevada Tax Commission shall adopt formulas and
25 incorporate them in its records, providing the method or methods
26 pursued in fixing and establishing the taxable value of all property
27 assessed by it. The formulas must be adopted and may be changed
28 from time to time upon its own motion or when made necessary by
29 judicial decisions, but the formulas must in any event show all the
30 elements of value considered by the Nevada Tax Commission in
31 arriving at and fixing the value for any class of property assessed by
32 it. These formulas must take into account, as indicators of value, the
33 company's income and the cost of its assets, but the taxable value
34 may not exceed the cost of replacement as appropriately
35 depreciated.

36 6. If two or more persons perform separate functions that
37 collectively are needed to deliver electric service to the final
38 customer and the property used in performing the functions would
39 be centrally assessed if owned by one person, the Nevada Tax
40 Commission shall establish its valuation and apportion the valuation
41 among the several counties in the same manner as the valuation of
42 other centrally assessed property. The Nevada Tax Commission
43 shall determine the proportion of the tax levied upon the property by
44 each county according to the valuation of the contribution of each
45 person to the aggregate valuation of the property. This subsection



1 does not apply to a qualifying facility, as defined in 18 C.F.R. §
2 292.101, which was constructed before July 1, 1997, or to an
3 exempt wholesale generator, as defined in 15 U.S.C. § 79z-5a.

4 7. A company engaged in a business described in subsection 1
5 that does not have property of an interstate or intercounty nature
6 must be assessed as provided in subsection 8.

7 8. All other property, including, without limitation, that of any
8 company engaged in providing commercial mobile radio service,
9 radio or television transmission services or cable television **or other**
10 **video** services, must be assessed by the county assessors, except as
11 otherwise provided in NRS 361.321 and 362.100 and except that the
12 valuation of land and mobile homes must be established for
13 assessment purposes by the Nevada Tax Commission as provided in
14 NRS 361.325.

15 9. On or before November 1 of each year, the Department shall
16 forward a tax statement to each private car line company based on
17 the valuation established pursuant to this section and in accordance
18 with the tax levies of the several districts in each county. The
19 company shall remit the ad valorem taxes due on or before
20 December 15 to the Department, which shall allocate the taxes due
21 each county on a mile-unit basis and remit the taxes to the counties
22 no later than January 31. The portion of the taxes which is due the
23 State must be transmitted directly to the State Treasurer. A company
24 which fails to pay the tax within the time required shall pay a
25 penalty of 10 percent of the tax due or \$5,000, whichever is greater,
26 in addition to the tax. Any amount paid as a penalty must be
27 deposited in the State General Fund. The Department may, for good
28 cause shown, waive the payment of a penalty pursuant to this
29 subsection. As an alternative to any other method of recovering
30 delinquent taxes provided by this chapter, the Attorney General may
31 bring a civil action in a court of competent jurisdiction to recover
32 delinquent taxes due pursuant to this subsection in the manner
33 provided in NRS 361.560.

34 10. For the purposes of this section, an unscheduled air
35 transport company does not include a company that only uses three
36 or fewer fixed-wing aircraft with a weight of less than 12,500
37 pounds to provide transportation services, if the company elects, in
38 the form and manner prescribed by the Department, to have the
39 property of the company assessed by a county assessor.

40 11. As used in this section:

41 (a) "Company" means any person, company, corporation or
42 association engaged in the business described.

43 (b) "Commercial mobile radio service" has the meaning
44 ascribed to it in 47 C.F.R. § 20.3, as that section existed on
45 January 1, 1998.



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Sec. 95. NRS 372.728 is hereby amended to read as follows:

372.728 In administering the provisions of this chapter, the Department shall construe the term “retailer maintaining a place of business in this State” to include:

1. A retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or place of storage, or any other place of business, in this State.

2. A retailer having any representative, agent, salesman, canvasser or solicitor operating in this State under the authority of the retailer or its subsidiary to sell, deliver or take orders for tangible personal property.

3. With respect to a lease, a retailer deriving rentals from a lease of tangible personal property situated in this State.

4. A retailer soliciting orders for tangible personal property through a system for shopping by means of telecommunication or television, using toll-free telephone numbers, which is intended by the retailer to be broadcast by cable television or **other video service network or any** other means of broadcasting to persons located in this State or through a website on the Internet or other electronic means of communication to provide solicitations to persons in this State.

5. A retailer who, pursuant to a contract with a broadcaster or publisher located in this State, solicits orders for tangible personal property by means of advertising which is disseminated primarily to persons located in this State and only secondarily to bordering jurisdictions.

6. A retailer soliciting orders for tangible personal property by mail or electronic facsimile if the solicitations are substantial and recurring and if the retailer benefits from any activities occurring in this State related to banking, financing, the collection of debts, telecommunication or marketing, or benefits from the location in this State of authorized facilities for installation, servicing or repairs.

7. A retailer owned or controlled by the same person who owns or controls a retailer who maintains a place of business in the same or a similar line of business in this State.

8. A retailer having a person operating under its trade name, pursuant to a franchise or license authorized by the retailer, if the person so operating is required to collect the tax pursuant to NRS 372.195.

9. A retailer who, pursuant to a contract with the operator of a ~~system of~~ cable television **system or other video service network** located in this State, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a



~~system of~~ cable television *system or other video service network located* in this State.

Sec. 96. NRS 372.734 is hereby amended to read as follows:

372.734 In administering the provisions of this chapter, the Department shall not consider the activities of persons that are directly related to the process of transmitting radio, television, cable television, *video* or data signals, including the transmission of news or information by *video or* data signal, the transmission of signals from one broadcaster to another and from a broadcaster to a member of the public and including the production and airing of any form of speech or broadcast by radio or television, whether or not compensation is provided to the broadcaster in connection therewith, to be transactions that are taxable pursuant to the provisions of this chapter.

Sec. 97. NRS 374.728 is hereby amended to read as follows:

374.728 In administering the provisions of this chapter, the Department shall construe the term "retailer maintaining a place of business in a county" to include:

1. A retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or place of storage, or any other place of business, in the county.

2. A retailer having any representative, agent, salesman, canvasser or solicitor operating in the county under the authority of the retailer or its subsidiary to sell, deliver or take orders for tangible personal property.

3. With respect to a lease, a retailer deriving rentals from a lease of tangible personal property situated in the county.

4. A retailer soliciting orders for tangible personal property through a system for shopping by means of telecommunication or television, using toll-free telephone numbers, which is intended by the retailer to be broadcast by cable television or *other video service network or any* other means of broadcasting to persons located in the county or through a website on the Internet or other electronic means of communication to provide solicitations to persons in this State.

5. A retailer who, pursuant to a contract with a broadcaster or publisher located in the State, solicits orders for tangible personal property by means of advertising which is disseminated primarily to persons located in the State and only secondarily to bordering jurisdictions, and which is disseminated to persons located in the county.

6. A retailer soliciting orders for tangible personal property by mail or electronic facsimile if the solicitations are substantial and



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1 recurring and if the retailer benefits from any activities occurring in
2 the county related to banking, financing, the collection of debts,
3 telecommunication or marketing, or benefits from the location in the
4 county of authorized facilities for installation, servicing or repairs.

5 7. A retailer owned or controlled by the same persons who own
6 or control a retailer who maintains a place of business in the same or
7 a similar line of business in the county.

8 8. A retailer having a person operating under its trade name,
9 pursuant to a franchise or license authorized by the retailer, if the
10 person so operating is required to collect the tax pursuant to
11 NRS 374.200.

12 9. A retailer who, pursuant to a contract with the operator of a
13 ~~system of~~ cable television *system or other video service network*
14 located in the State, solicits orders for tangible personal property by
15 means of advertising which is transmitted or distributed over a
16 ~~system of~~ cable television *system or other video service network*
17 *located* in the county.

18 **Sec. 98.** NRS 374.739 is hereby amended to read as follows:

19 374.739 In administering the provisions of this chapter, the
20 Department shall not consider the activities of persons that are
21 directly related to the process of transmitting radio, television, cable
22 television , *video* or data signals, including the transmission of news
23 or information by *video* or data signal, the transmission of signals
24 from one broadcaster to another and from a broadcaster to a member
25 of the public and including the production and airing of any form of
26 speech or broadcast by radio or television, whether or not
27 compensation is provided to the broadcaster in connection
28 therewith, to be transactions that are taxable pursuant to the
29 provisions of this chapter.

30 **Sec. 99.** NRS 425.393 is hereby amended to read as follows:

31 425.393 1. The Chief may request the following information
32 to carry out the provisions of this chapter:

33 (a) The records of the following public officers and state, county
34 and local agencies:

- 35 (1) The State Registrar of Vital Statistics;
36 (2) Agencies responsible for maintaining records relating to
37 state and local taxes and revenue;
38 (3) Agencies responsible for keeping records concerning real
39 property and personal property for which a title must be obtained;
40 (4) All boards, commissions and agencies that issue
41 occupational or professional licenses, certificates or permits;
42 (5) The Secretary of State;
43 (6) The Employment Security Division of the Department of
44 Employment, Training and Rehabilitation;
45 (7) Agencies that administer public assistance;



(8) The Department of Motor Vehicles;
(9) The Department of Public Safety;
(10) The Department of Corrections; and
(11) Law enforcement agencies and any other agencies that maintain records of criminal history.

(b) The names and addresses of:

(1) The customers of public utilities and ~~community antenna television companies;~~ **video service providers;** and

(2) The employers of the customers described in subparagraph (1).

(c) Information in the possession of financial institutions relating to the assets, liabilities and any other details of the finances of a person.

(d) Information in the possession of a public or private employer relating to the employment, compensation and benefits of a person employed by the employer as an employee or independent contractor.

2. If a person or other entity fails to supply the information requested pursuant to subsection 1, the Administrator may issue a subpoena to compel the person or entity to provide that information. A person or entity who fails to comply with a request made pursuant to subsection 1 is subject to a civil penalty not to exceed \$500 for each failure to comply.

3. A disclosure made in good faith pursuant to subsection 1 does not give rise to any action for damages for the disclosure.

Sec. 100. NRS 432.310 is hereby amended to read as follows:

432.310 "Broadcaster" means a radio broadcasting station, cable operator **or other video service provider** or television broadcasting station primarily engaged in, and deriving income from, the business of facilitating speech via over-the-air communications, both as to pure speech and commercial speech.

Sec. 101. NRS 455.210 is hereby amended to read as follows:

455.210 The provisions of NRS 455.220 and 455.230 are not applicable to:

1. An employee of a public utility which produces, transmits or delivers electricity, or a public utility which provides communication services, while the employee, in the course of his employment, constructs, modifies, operates or maintains:

(a) Electrical systems;

(b) Communication systems; or

(c) Overhead electrical or communication circuits or conductors, or the structures supporting them.

2. An employee of a ~~cable antenna television system~~ **video service provider operating pursuant to chapter 711 of NRS** or a business which provides communication services, while the



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employee, acting within the scope of his employment, is making service attachments to the structure supporting an overhead line carrying high voltage, if authorized to do so by the public utility operating the overhead line.

Sec. 102. NRS 597.816 is hereby amended to read as follows:

597.816 The provisions of NRS 597.814 do not prohibit the use of a device for automatic dialing and announcing by any person exclusively on behalf of:

1. A school or school district to contact the parents or guardians of a pupil regarding the attendance of the pupil or regarding other business of the school or school district.

2. A nonprofit organization.

3. A ~~company~~ **video service provider** that provides cable television **or other video** services to contact its customers regarding a previously arranged installation of such services at the premises of the customer.

4. A public utility to contact its customers regarding a previously arranged installation of utility services at the premises of the customer.

5. A facility that processes or stores petroleum, volatile petroleum products, natural gas, liquefied petroleum gas, combustible chemicals, explosives, high-level radioactive waste or other dangerous substances to advise local residents, public service agencies and news media of an actual or potential life-threatening emergency.

6. A state or local governmental agency, or a private entity operating under contract with and at the direction of such an agency, to provide:

(a) Information relating to public safety;

(b) Information relating to a police or fire emergency; or

(c) A warning of an impending or threatening emergency.

7. A candidate for public office, committee advocating the passage or defeat of a ballot question, political party, committee sponsored by a political party or a committee for political action.

Sec. 103. NRS 598.137 is hereby amended to read as follows:

598.137 1. A person shall not, in connection with the sale or lease or solicitation for sale or lease of any goods, property or service, represent that another person has a chance to receive a prize or item of value without clearly disclosing on whose behalf the contest or promotion is conducted and all conditions that a participant must meet.

2. A person who makes a representation described in subsection 1 must display, clearly and conspicuously, adjacent to the description of the item or prize to which it relates:

(a) The actual retail value of each item or prize;



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- 1 (b) The number of each item or prize to be awarded; and
- 2 (c) The odds of receiving each item or prize, expressed in whole
- 3 numbers.

4 3. It is unlawful to make a representation described in

5 subsection 1 if it has already been determined which items will be

6 given to the person to whom the representation is made.

7 4. The provisions of this section do not apply if:

8 (a) Participants are asked to complete and mail or deposit, at a

9 local retail commercial establishment, an entry blank obtained

10 locally or by mail, or to call in their entry by telephone; and

11 (b) Participants are not asked to listen to a sales presentation.

12 5. Advertisements with representations made pursuant to

13 subsection 1 that are broadcast by radio or television may be

14 broadcast without the required disclosures, conditions and

15 restrictions but must clearly broadcast the availability of such

16 disclosures, conditions and restrictions to an interested person,

17 without any charge, upon request.

18 6. This section does not create liability for acts of a publisher,

19 owner, agent or employee of a newspaper, periodical, radio station,

20 television station, cable television system **or other video service**

21 **network** or other advertising medium for the publication or

22 dissemination of an advertisement or promotion pursuant to this

23 section if the publisher, owner, agent or employee did not know that

24 the advertisement or promotion violated the provisions of this

25 section.

26 7. For the purposes of this section, the actual retail value of an

27 item or prize is the price at which substantial sales of the item were

28 made in an area within the last 90 days, or if no substantial sales

29 were made, the cost of the item or prize to the person on whose

30 behalf the contest or promotion is conducted.

31 **Sec. 104.** NRS 598A.040 is hereby amended to read as

32 follows:

33 598A.040 The provisions of this chapter do not apply to:

34 1. Any labor, agricultural or horticultural organizations

35 organized for the purpose of self-help and not for profit to itself nor

36 to individual members thereof, while lawfully carrying out its

37 legitimate objects.

38 2. Bona fide religious and charitable activities of any nonprofit

39 corporation, trust or organization established exclusively for

40 religious or charitable purposes.

41 3. Conduct which is expressly authorized, regulated or

42 approved by:

43 (a) A statute of this State or of the United States;



(b) An ordinance of any city or county of this State, except for ordinances relating to ~~community antenna television companies;~~ **video service providers;** or

(c) An administrative agency of this State or of the United States or of a city or county of this State, having jurisdiction of the subject matter.

4. Conduct or agreements relating to rates, fares, classifications, divisions, allowances or charges, including charges between carriers and compensation paid or received for the use of facilities and equipment, that are authorized, regulated or approved by the Transportation Services Authority pursuant to chapter 706 of NRS.

5. Restrictive covenants:

(a) Which are part of a contract of sale for a business and which bar the seller of the business from competing with the purchaser of the business sold within a reasonable market area for a reasonable period of time; or

(b) Which are part of a commercial shopping center lease and which bar the parties from permitting or engaging in the furnishing of certain services or the sale of certain commodities within the commercial shopping center where such leased premises are located.

Sec. 105. NRS 599B.010 is hereby amended to read as follows:

599B.010 As used in this chapter, unless the context otherwise requires:

1. "Chance promotion" means any plan in which premiums are distributed by random or chance selection.

2. "Commissioner" means the Commissioner of Consumer Affairs.

3. "Consumer" means a person who is solicited by a seller or salesman.

4. "Division" means the Consumer Affairs Division of the Department of Business and Industry.

5. "Donation" means a promise, grant or pledge of money, credit, property, financial assistance or other thing of value given in response to a solicitation by telephone, including, but not limited to, a payment or promise to pay in consideration for a performance, event or sale of goods or services. The term does not include volunteer services, government grants or contracts or a payment by members of any organization of membership fees, dues, fines or assessments or for services rendered by the organization to those persons, if:

(a) The fees, dues, fines, assessments or services confer a bona fide right, privilege, professional standing, honor or other direct benefit upon the member; and



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(b) Membership in the organization is not conferred solely in consideration for making a donation in response to a solicitation.

6. “Goods or services” means any property, tangible or intangible, real, personal or mixed, and any other article, commodity or thing of value.

7. “Premium” includes any prize, bonus, award, gift or any other similar inducement or incentive to purchase.

8. “Recovery service” means a business or other practice whereby a person represents or implies that he will, for a fee, recover any amount of money that a consumer has provided to a seller or salesman pursuant to a solicitation governed by the provisions of this chapter.

9. “Salesman” means any person:

(a) Employed or authorized by a seller to sell, or to attempt to sell, goods or services by telephone;

(b) Retained by a seller to provide consulting services relating to the management or operation of the seller’s business; or

(c) Who communicates on behalf of a seller with a consumer:

(1) In the course of a solicitation by telephone; or

(2) For the purpose of verifying, changing or confirming an order,

except that a person is not a salesman if his only function is to identify a consumer by name only and he immediately refers the consumer to a salesman.

10. Except as otherwise provided in subsection 11, “seller” means any person who, on his own behalf, causes or attempts to cause a solicitation by telephone to be made through the use of one or more salesmen or any automated dialing announcing device under any of the following circumstances:

(a) The person initiates contact by telephone with a consumer and represents or implies:

(1) That a consumer who buys one or more goods or services will receive additional goods or services, whether or not of the same type as purchased, without further cost, except for actual postage or common carrier charges;

(2) That a consumer will or has a chance or opportunity to receive a premium;

(3) That the items for sale are gold, silver or other precious metals, diamonds, rubies, sapphires or other precious stones, or any interest in oil, gas or mineral fields, wells or exploration sites or any other investment opportunity;

(4) That the product offered for sale is information or opinions relating to sporting events;

(5) That the product offered for sale is the services of a recovery service; or



(6) That the consumer will receive a premium or goods or services if he makes a donation;

(b) The solicitation by telephone is made by the person in response to inquiries from a consumer generated by a notification or communication sent or delivered to the consumer that represents or implies:

(1) That the consumer has been in any manner specially selected to receive the notification or communication or the offer contained in the notification or communication;

(2) That the consumer will receive a premium if the recipient calls the person;

(3) That if the consumer buys one or more goods or services from the person, the consumer will also receive additional or other goods or services, whether or not the same type as purchased, without further cost or at a cost that the person represents or implies is less than the regular price of the goods or services;

(4) That the product offered for sale is the services of a recovery service; or

(5) That the consumer will receive a premium or goods or services if he makes a donation; or

(c) The solicitation by telephone is made by the person in response to inquiries generated by advertisements that represent or imply that the person is offering to sell any:

(1) Gold, silver or other metals, including coins, diamonds, rubies, sapphires or other stones, coal or other minerals or any interest in oil, gas or other mineral fields, wells or exploration sites, or any other investment opportunity;

(2) Information or opinions relating to sporting events; or

(3) Services of a recovery service.

11. “Seller” does not include:

(a) A person licensed pursuant to chapter 90 of NRS when soliciting offers, sales or purchases within the scope of his license.

(b) A person licensed pursuant to chapter 119A, 119B, 624, 645 or 696A of NRS when soliciting sales within the scope of his license.

(c) A person licensed as an insurance broker, agent or solicitor when soliciting sales within the scope of his license.

(d) Any solicitation of sales made by the publisher of a newspaper or magazine or by an agent of the publisher pursuant to a written agreement between the agent and publisher.

(e) A broadcaster soliciting sales who is licensed by any state or federal authority, if the solicitation is within the scope of the broadcaster’s license.

(f) A person who solicits a donation from a consumer when:



(1) The person represents or implies that the consumer will receive a premium or goods or services with an aggregated fair market value of 2 percent of the donation or \$50, whichever is less; or

(2) The consumer provides a donation of \$50 or less in response to the solicitation.

(g) A charitable organization which is registered or approved to conduct a lottery pursuant to chapter 462 of NRS.

(h) A public utility or motor carrier which is regulated pursuant to chapter 704 or 706 of NRS, or by an affiliate of such a utility or motor carrier, if the solicitation is within the scope of its certificate or license.

(i) A utility which is regulated pursuant to chapter 710 of NRS, or by an affiliate of such a utility.

(j) A person soliciting the sale of books, recordings, video cassettes, software for computer systems or similar items through:

(1) An organization whose method of sales is governed by the provisions of Part 425 of Title 16 of the Code of Federal Regulations relating to the use of negative option plans by sellers in commerce;

(2) The use of continuity plans, subscription arrangements, arrangements for standing orders, supplements, and series arrangements pursuant to which the person periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received; or

(3) An arrangement pursuant to which the person ships merchandise to a consumer who has consented in advance to receive the merchandise and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received.

(k) A person who solicits sales by periodically publishing and delivering a catalog to consumers if the catalog:

(1) Contains a written description or illustration of each item offered for sale and the price of each item;

(2) Includes the business address of the person;

(3) Includes at least 24 pages of written material and illustrations;

(4) Is distributed in more than one state; and

(5) Has an annual circulation by mailing of not less than 250,000.

(l) A person soliciting without the intent to complete and who does not complete, the sales transaction by telephone but completes the sales transaction at a later face-to-face meeting between the



1 solicitor and the consumer, if the person, after soliciting a sale by
2 telephone, does not cause another person to collect the payment
3 from or deliver any goods or services purchased to the consumer.

4 (m) Any commercial bank, bank holding company, subsidiary or
5 affiliate of a bank holding company, trust company, savings and
6 loan association, credit union, industrial loan company, personal
7 property broker, consumer finance lender, commercial finance
8 lender, or insurer subject to regulation by an official or agency of
9 this State or of the United States, if the solicitation is within the
10 scope of the certificate or license held by the entity.

11 (n) A person holding a certificate of authority issued pursuant to
12 chapter 452 of NRS when soliciting sales within the scope of the
13 certificate.

14 (o) A person licensed pursuant to chapter 689 of NRS when
15 soliciting sales within the scope of his license.

16 (p) A person soliciting the sale of services provided by a
17 ~~community antenna television company~~ video service provider
18 subject to regulation pursuant to chapter 711 of NRS.

19 (q) A person soliciting the sale of agricultural products, if the
20 solicitation is not intended to and does not result in a sale of more
21 than \$100 that is to be delivered to one address. As used in this
22 paragraph, "agricultural products" has the meaning ascribed to it in
23 NRS 587.290.

24 (r) A person who has been operating, for at least 2 years, a retail
25 business establishment under the same name as that used in
26 connection with the solicitation of sales by telephone if, on a
27 continuing basis:

28 (1) Goods are displayed and offered for sale or services are
29 offered for sale and provided at the person's business establishment;
30 and

31 (2) At least 50 percent of the person's business involves the
32 buyer obtaining such goods or services at the person's business
33 establishment.

34 (s) A person soliciting only the sale of telephone answering
35 services to be provided by the person or his employer.

36 (t) A person soliciting a transaction regulated by the Commodity
37 Futures Trading Commission, if:

38 (1) The person is registered with or temporarily licensed by
39 the Commission to conduct that activity pursuant to the Commodity
40 Exchange Act, 7 U.S.C. §§ 1 et seq.; and

41 (2) The registration or license has not expired or been
42 suspended or revoked.

43 (u) A person who contracts for the maintenance or repair of
44 goods previously purchased from the person:

45 (1) Making the solicitation; or



1 (2) On whose behalf the solicitation is made.

2 (v) A person to whom a license to operate an information
3 service or a nonrestricted gaming license, which is current and valid,
4 has been issued pursuant to chapter 463 of NRS when soliciting
5 sales within the scope of his license.

6 (w) A person who solicits a previous customer of the business
7 on whose behalf the call is made if the person making the call:

8 (1) Does not offer the customer any premium in connection
9 with the sale;

10 (2) Is not selling an investment or an opportunity for an
11 investment that is not registered with any state or federal authority;
12 and

13 (3) Is not regularly engaged in telephone sales.

14 (x) A person who solicits the sale of livestock.

15 (y) An issuer which has a class of securities that is listed on the
16 New York Stock Exchange, the American Stock Exchange or the
17 National Market System of the National Association of Securities
18 Dealers Automated Quotation System.

19 (z) A subsidiary of an issuer that qualifies for exemption
20 pursuant to paragraph (y) if at least 60 percent of the voting power
21 of the shares of the subsidiary is owned by the issuer.

22 **Sec. 105.1.** For the purposes of sections 105.3 to 106.2,
23 inclusive, of this act, the Legislature hereby finds and declares that:

24 1. There is a need to balance the goal of providing children
25 with the benefits and opportunities available on the Internet against
26 the compelling need and duty to protect children from contact with
27 sexual predators.

28 2. Sexual predators use Internet and network sites, including
29 chat rooms and social networking websites, to locate, approach and
30 befriend children, to acquire personal information about children
31 and to prey on children by engaging in sexually explicit
32 conversations, requesting photographs and attempting to lure
33 children into meeting with them in person.

34 3. According to the United States Attorney General, one in five
35 children has been approached sexually on the Internet.

36 4. The explosive growth of chat rooms and social networking
37 websites has increased the difficulty of monitoring the Internet
38 activities of children and protecting children from sexual predators,
39 particularly when children use the Internet without supervision.

40 5. Providers of Internet service and the owners and operators of
41 chat rooms and social networking websites are well-situated to help
42 parents and guardians in the on-going effort to guard against sexual
43 predators who misuse Internet technology as a tool to prey on and
44 victimize children.



1 **Sec. 105.2.** Chapter 603 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 105.3 to 106.2, inclusive,
3 of this act.

4 **Sec. 105.3.** *As used in sections 105.3 to 106.2, inclusive, of*
5 *this act, unless the context otherwise requires, the words and terms*
6 *defined in sections 105.4 to 105.7, inclusive, of this act have the*
7 *meanings ascribed to them in those sections.*

8 **Sec. 105.4.** *“Child” means a person who is less than 18 years*
9 *of age.*

10 **Sec. 105.5.** *“Electronic mail” has the meaning ascribed to it*
11 *in NRS 41.715.*

12 **Sec. 105.6.** 1. *“Internet or any other computer network”*
13 *means:*

14 (a) *The computer network commonly known as the Internet*
15 *and any other local, regional or global computer network that is*
16 *similar to or is a predecessor or successor of the Internet; and*

17 (b) *Any identifiable site on the Internet or such other computer*
18 *network.*

19 2. *The term includes, without limitation:*

20 (a) *A website or other similar site on the World Wide Web;*

21 (b) *A site that is identifiable through a Uniform Resource*
22 *Location;*

23 (c) *A site on a computer network that is owned, operated,*
24 *administered or controlled by a provider of Internet service;*

25 (d) *An electronic bulletin board;*

26 (e) *A list server;*

27 (f) *A newsgroup; or*

28 (g) *A chat room.*

29 **Sec. 105.7.** *“Provider of Internet service” or “provider”*
30 *means any person who, for a fee or other consideration, provides*
31 *subscribers with access to the Internet or any other computer*
32 *network.*

33 **Sec. 105.8.** *For the purposes of sections 105.3 to 106.2,*
34 *inclusive, of this act, a person has “reasonable cause to believe” if,*
35 *in light of all the surrounding facts and circumstances which are*
36 *known or which reasonably should be known to the person at the*
37 *time, a reasonable person would believe, under those facts and*
38 *circumstances, that an act, transaction, event, situation or*
39 *condition exists, is occurring or has occurred.*

40 **Sec. 106.** 1. *If a provider of Internet service knows or has*
41 *reasonable cause to believe that a subscriber resides within this*
42 *State, the provider shall make available to the subscriber a product*
43 *or service which enables the subscriber to regulate a child’s use of*
44 *the Internet service provided to the subscriber if such a product or*
45 *service is reasonably and commercially available for the*



1 *technology utilized by the subscriber to access the Internet service.*
2 *The product or service must, subject to such availability, enable*
3 *the subscriber to:*

4 *(a) Block all access to the Internet;*

5 *(b) Block access to specific websites or domains disapproved*
6 *by the subscriber;*

7 *(c) Restrict access exclusively to specific websites or domains*
8 *approved by the subscriber; and*

9 *(d) Allow the subscriber to monitor a child's use of the*
10 *Internet service by providing a report to the subscriber of the*
11 *specific websites or domains that the child has visited or has*
12 *attempted to visit but could not access because the websites or*
13 *domains were blocked or restricted by the subscriber.*

14 *2. For the purposes of subsection 1, a provider of Internet*
15 *service shall be deemed to know that a subscriber resides within*
16 *this State if the subscriber identifies Nevada as his place of*
17 *residence at the time of subscription.*

18 *3. If a product or service described in subsection 1 is*
19 *reasonably and commercially available for the technology utilized*
20 *by the subscriber to access the Internet service, the provider of*
21 *Internet service:*

22 *(a) Shall provide to the subscriber, at the time of subscription,*
23 *notice of the availability of the product or service described in*
24 *subsection 1. The notice must be provided to the subscriber by*
25 *electronic mail or in a written form through another reasonable*
26 *means.*

27 *(b) May make the product or service described in subsection 1*
28 *available to the subscriber either directly or through a third-party*
29 *vendor. The provider or third-party vendor may charge the*
30 *subscriber a fee for the product or service.*

31 **Sec. 106.2.** *1. Any violation of sections 105.3 to 106.2,*
32 *inclusive, of this act constitutes a deceptive trade practice subject*
33 *to NRS 598.0903 to 598.0999, inclusive.*

34 *2. The remedies, duties and prohibitions set forth in sections*
35 *105.3 to 106.2, inclusive, of this act are not exclusive and are in*
36 *addition to any other remedies, duties and prohibitions provided by*
37 *law.*

38 **Sec. 106.4.** *NRS 603.010 is hereby amended to read as*
39 *follows:*

40 *603.010 As used in ~~this chapter~~ NRS 603.010 to 603.090,*
41 *inclusive, unless the context otherwise requires, the words and terms*
42 *defined in NRS 603.020 and 603.030, have the meanings ascribed to*
43 *them in those sections.*



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1 **Sec. 106.6.** NRS 603.090 is hereby amended to read as
2 follows:

3 603.090 The civil remedies provided in ~~{this chapter:}~~ NRS
4 **603.010 to 603.090, inclusive:**

5 1. Do not preclude the prosecution of a defendant under the
6 penal laws of this State.

7 2. Are in addition to any rights or remedies to which the owner
8 of a proprietary program or data stored in a computer is entitled
9 under the common law.

10 **Sec. 106.8.** NRS 618.880 is hereby amended to read as
11 follows:

12 618.880 1. The Division shall adopt regulations establishing
13 standards and procedures for the operation of cranes, including,
14 without limitation, regulations requiring the:

15 (a) Establishment and implementation of site safety plans and
16 procedures for the erection and dismantling of tower cranes;

17 (b) Establishment of a clear zone around the erection,
18 dismantling or other highly hazardous lifts with a crane;

19 (c) Annual certification of the mechanical lifting parts of the
20 crane; and

21 (d) Certification of tower cranes each time a tower crane is
22 erected and additional annual certifications of tower cranes while
23 they continue to be in use.

24 2. Except as otherwise provided in subsection 3:

25 (a) The Division shall adopt regulations requiring the
26 establishment and implementation of programs for the certification
27 of all persons who operate:

28 (1) Tower cranes; or

29 (2) Mobile cranes having a usable boom length of 25 feet or
30 greater or a maximum machine rated capacity of 15,000 pounds or
31 greater.

32 (b) A person shall not operate a tower crane or a mobile crane
33 described in subparagraph (2) of paragraph (a) unless the person
34 holds certification as a crane operator issued pursuant to this
35 subsection for the type of crane being operated.

36 (c) An applicant for certification as a crane operator must hold a
37 certificate which:

38 (1) Is issued by an organization whose program of
39 certification for crane operators:

40 (I) Is accredited by the National Commission for
41 Certifying Agencies or an equivalent accrediting body approved by
42 the Division; or

43 (II) Meets other criteria established by the Division; and

44 (2) Certifies that the person has met the standards to be a
45 crane operator established by the American Society of Mechanical



1 Engineers in its standards B30.3, B30.4 or B30.5 as adopted by
2 regulation of the Division.

3 3. The provisions of subsection 2 do not apply to a person who:
4 (a) Is an employee of a utility while the person is engaged in
5 work for or at the direction of the utility;

6 (b) Operates an electric or utility line truck that is regulated
7 pursuant to 29 C.F.R. § 1910.269 or 29 C.F.R. Part 1926, Subpart
8 V; or

9 (c) Operates an aerial or lifting device, whether or not self-
10 propelled, that is designed and manufactured with the specific
11 purpose of lifting one or more persons in a bucket or basket or on a
12 ladder or platform and holding those persons in the lifted position
13 while they perform tasks. Such devices include, without limitation:

- 14 (1) A bucket truck or lift;
15 (2) An aerial platform;
16 (3) A platform lift; or
17 (4) A scissors lift.

18 4. As used in this section, “utility” means any public or private
19 utility, whether or not the utility is subject to regulation by the
20 Public Utilities Commission of Nevada, that provides, at wholesale
21 or retail:

22 (a) Electric service;
23 (b) Gas service;
24 (c) Water or sewer service;
25 (d) Telecommunication service, including, without limitation,
26 local exchange service, long distance service and personal wireless
27 service; or

28 (e) Television service, including, without limitation, community
29 antenna television, *cable television and other video* service.

30 **Sec. 107.** NRS 624.218 is hereby amended to read as follows:

31 624.218 1. The Board shall adopt by regulation a
32 classification of licensing for persons who construct or improve
33 ~~community antenna television systems.~~ *video service networks.*
34 Except as otherwise provided in subsection 2, a person who engages
35 in such construction, alteration or improvement must be licensed in
36 this classification and may not be required to be licensed in any
37 other classification.

38 2. The licensing requirements adopted pursuant to subsection 1
39 do not apply to a person who is engaged solely in the alteration or
40 repair of antennae used by a community antenna television system.

41 *3. As used in this section, “video service network” has the*
42 *meaning ascribed to it in section 26 of this act.*

43 **Sec. 108.** 1. NRS 318.1193, 318.1194, 354.598811, 711.185,
44 711.190, 711.200, 711.210, 711.230 and 711.250 are hereby
45 repealed.



2. Section 2.290 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, at page 63, is hereby repealed.

3. Section 2.320 of the Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 612, is hereby repealed.

4. Section 2.280 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, at page 300, is hereby repealed.

5. Section 2.350 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as amended by chapter 51, Statutes of Nevada 2001, at page 460, is hereby repealed.

6. Section 2.300 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 410, is hereby repealed.

7. Section 2.330 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1405, is hereby repealed.

8. Section 2.300 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, at page 1219, is hereby repealed.

9. Section 2.320 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 466, is hereby repealed.

10. Section 2.300 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as amended by chapter 184, Statutes of Nevada 1985, at page 645, is hereby repealed.

Sec. 109. On or before October 1, 2007, the Secretary of State shall adopt any regulations that are necessary to carry out the provisions of this act.

Sec. 110. This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

318.1193 Facilities for television: Limitation on organization if area includes existing service.

318.1194 Facilities for television: Approval of electors required in certain districts for franchise for community antenna television system.

354.598811 Limitations on fees applicable to public utilities: “Community antenna television company” defined.

711.185 Governing body may grant exclusive franchise.



711.190 Franchise granted by city or county: Conditions; requirements.

711.200 Fees for franchise.

711.210 Renewal of franchise.

711.230 Considerations in granting franchise.

711.250 Adoption of ordinance to establish procedure to resolve complaints of subscribers; notice.

Caliente City Charter Sec. 2.290 Powers of City Council: Television franchises.

Carlin City Charter Sec. 2.320 Powers of Board of Councilmen: Television franchises.

Carson City Charter Sec. 2.280 Power of Board: Television franchises.

Elko City Charter Sec. 2.350 Powers of City Council: Television franchises.

Henderson City Charter Sec. 2.300 Powers of City Council: Television franchises.

Las Vegas City Charter Sec. 2.330 Powers of City Council: Television franchises.

North Las Vegas City Charter Sec. 2.300 Powers of City Council: Television franchises.

Wells City Charter Sec. 2.320 Powers of Board of Councilmen: Television franchises.

Yerington City Charter Sec. 2.300 Powers of City Council: Franchises for television and cable television.

