

Amendment No. 702

Senate Amendment to Assembly Bill No. 526 First Reprint (BDR 58-1129)

Proposed by: Senate Committee on Commerce and Labor**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 526 (§ 29.5).

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

KCP



Date: 5/17/2007

A.B. No. 526—Revises provisions relating to community antenna television, cable television, video service, Internet service and other information technology. (BDR 58-1129)



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 ~~omitted 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:

This bill enacts various provisions relating to community antenna television, cable television, video service, Internet service and other information technology.

Under existing law, a local government has the authority to grant local franchises for the operation of a community antenna or cable television system within its jurisdiction. Because each local government has independent authority to grant its own franchises, a cable operator that wants to operate in multiple jurisdictions must negotiate a separate local franchise with each local government. (Chapter 711 of NRS)

To promote competition in the cable industry, the federal Cable Act prohibits a local government from granting an exclusive franchise or unreasonably refusing to grant competitive franchises. The federal Cable Act also prohibits a local 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~~, **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 ~~civil and~~ **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

1 *video service provider which consist of providing a telecommunication service to*
2 *the public.*

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

5 *Sec. 3. "Agreement" means any agreement or contract of any kind.*

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

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

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

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

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

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

22 *Sec. 10. "Franchise fee" means a franchise fee imposed by a local*
23 *government on a video service provider for the privilege of providing video*
24 *service.*

25 *Sec. 11. 1. "Gross revenue" means:*

26 *(a) Any revenue a video service provider receives from its subscribers for*
27 *providing video service to those subscribers, as determined in accordance with*
28 *generally accepted accounting principles, except for revenue excluded pursuant*
29 *to subsection 3; and*

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

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

35 *(a) Recurring monthly charges;*

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

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

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

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

43 *(f) The amount of any revenue received by a video service provider for*
44 *providing video service when such service is a component of a bundle of services*
45 *or products sold for a single price, but only to the extent the revenue received by*
46 *the video service provider for the bundle of services or products is proportionately*
47 *allocated among each of the components.*

48 *3. The term does not include:*

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

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

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

53 *(1) Telecommunication service; or*

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

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

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

(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:

~~1. (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;*

~~2. (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*

~~3. (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 provide video service ~~pursuant to a certificate of authority~~ ~~or~~ or local franchise.*

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

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

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

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

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

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

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

16 (a) *Cable service; and*

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

18 3. *The term does not include:*

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

22 (b) *Direct broadcast satellite service.*

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

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

27 (a) *Located in this State;*

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

30 (c) *Used to provide video service.*

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

32 (a) *A cable system; and*

33 (b) *A community antenna television system.*

34 **Sec. 27. 1.** *“Video service provider” or “provider” means any person that*
35 *provides or offers to provide video service over a video service network to*
36 *subscribers in this State.*

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

38 (a) ~~“A”~~ *An incumbent cable operator or other cable operator;*

39 (b) *A community antenna television company; and*

40 (c) *A multichannel video programming distributor.*

41 **Sec. 28.** *This chapter occupies the entire field of franchising and*
42 *regulation of video service and, except as otherwise provided in sections 45 and*
43 *46 of this act, preempts any local law or agreement with a local government that:*

44 1. *Requires a person to obtain or hold from a local government any*
45 *franchise, permit, license or similar authorization, regardless of its name, to*
46 *provide video service or to construct or operate a video service network, unless*
47 *the person is an incumbent cable operator which holds an unexpired local*
48 *franchise and which has elected pursuant to ~~section 32~~ sections 32 and 32.5 of*
49 *this act to continue to operate within its service area pursuant to the local*
50 *franchise, ~~until the date on which the local franchise expires.~~*

51 2. *Regulates the provision of video service or the construction or operation*
52 *of a video service network if such regulation conflicts or is otherwise inconsistent*
53 *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 ~~HH~~.

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. ~~In carrying out the provisions of this chapter, the Secretary of State shall charge and collect:~~

~~1. A filing fee, in an amount not to exceed \$1,000, for accepting any application or notice pursuant to the provisions of this chapter; and~~

~~2. Except as otherwise provided in this subsection, a certification fee, in the amount of \$25,000, for issuing an original certificate of authority to a person who does not hold such a certificate pursuant to the provisions of this chapter. The Secretary of State:~~

~~(a) May charge and collect the certification fee only once from each such person; and~~

~~(b) May not charge and collect the certification fee from a local government that is authorized pursuant to NRS 711.175 to sell video service to the general public, or any entity or agency that is directly or indirectly controlled by the local government, if it provides video service or constructs or operates a video service network exclusively within the territorial boundaries of the local government.}~~

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.

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

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

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

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

10 4. A person may elect to apply for a certificate of authority that permits, but
11 does not require, the person to provide video service within one or more service
12 areas located anywhere in this State as designated in the application and affidavit
13 filed by the person pursuant to section 33 of this act. If a person applies for such
14 a certificate of authority, the certification fee for issuing the certificate of
15 authority to the person pursuant to sections 33 and 34 of this act is \$25,000. The
16 Secretary of State may charge and collect the certification fee pursuant to this
17 subsection only once from each such person.

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

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

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

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

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

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

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

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

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

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

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

47 **1. Authorize the Secretary of State to exercise oversight of video service**
48 **providers except as provided in this chapter.**

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

51 **Sec. 31. Except as otherwise provided in this chapter, a person shall not act**
52 **as a video service provider or construct or operate a video service network in any**

1 service area unless the person has obtained a certificate of authority for that
2 service area.

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

6 (a) Continue to operate within that service area pursuant to the local
7 franchise ~~until the date on which the local franchise expires;~~ in accordance
8 with section 32.5 of this act; or

9 (b) Terminate the local franchise within that service area by applying for and
10 obtaining a certificate of authority pursuant to ~~subsection 3.~~

11 ~~2. If an incumbent cable operator elects to continue to operate within a~~
12 ~~service area pursuant to a local franchise, the incumbent cable operator:~~

13 ~~(a) Must comply with the local franchise and all applicable provisions of this~~
14 ~~chapter until the date on which the local franchise expires; and~~

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

21 ~~3. this section.~~

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

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

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

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

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

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

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

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

50 2. To operate within that service area on or after the date on which the local
51 franchise expires, the incumbent cable operator must apply for and obtain a
52 certificate of authority in the same manner as any other video service provider. If
53 the incumbent cable operator is issued a certificate of authority for that service

1 area while operating pursuant to the local franchise, the certificate does not
2 become effective until the date on which the local franchise expires.

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

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

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

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

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

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

25 **(b) Pay ~~the fees~~ any fee required by section 29.5 of this act.**

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

28 **(a) A description of each service area designated by the applicant in which**
29 **the applicant intends to provide video service and a map of each such service area**
30 **that shows the territorial boundaries of each local government located, in whole**
31 **or in part, within the service area.**

32 **(b) The location of the principal place of business of the applicant and the**
33 **names of the principal executive officers or general partners of the applicant.**

34 **(c) Certifications that the applicant:**

35 **(1) Agrees to comply with all applicable federal and state laws and**
36 **regulations;**

37 **(2) Agrees to comply with all generally applicable, nondiscriminatory**
38 **local laws regarding the use and occupation of any public right-of-way or**
39 **highway in the construction, operation, maintenance and repair of a video**
40 **service network, including, without limitation, any local laws enacted pursuant to**
41 **the police powers of the local government in which the video service network is**
42 **located; and**

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

45 **3. If the Secretary of State determines that the application and affidavit are**
46 **incomplete or otherwise deficient, the Secretary of State shall provide written**
47 **notice to the applicant not later than 15 days after the date on which the**
48 **application and affidavit are filed. The written notice must:**

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

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

52 **4. The applicant shall provide a copy of the application and affidavit to the**
53 **governing body of each local government located, in whole or in part, within**

each service area designated in the application. The applicant shall provide such a copy:

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

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

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

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

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

Sec. 34. 1. Not later than 20 days after the date on which an applicant files a completed application and affidavit pursuant to section 33 of this act and pays ~~the fee~~ any fee required by section 29.5 of this act, the Secretary of State shall issue a certificate of authority to the applicant.

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

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

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

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

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

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

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

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

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

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

3. The application for an amendment to the certificate is subject to the same procedures, requirements and time periods as an application for the issuance of a certificate pursuant to sections 33 and 34 of this act ; ~~except that the holder is not required to pay the certification fee required by section 29.5 of this act.~~

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

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

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

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

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

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

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

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

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

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

Sec. 40.5. 1. If a video service provider that is not an incumbent cable operator within the jurisdiction of a local government intends to construct facilities within the jurisdiction of the local government pursuant to a certificate of authority, the video service provider shall, until it has constructed all the facilities intended for the jurisdiction of the local government, prepare and submit to the local government a semiannual report which describes the number of service locations within the jurisdiction of the local government that are capable of receiving video service from the video service provider.

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

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

- (a) Is confidential proprietary information of the video service provider;
- (b) Is not a public record; and

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

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

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

(b) Is not a public record; and

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

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

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

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

(b) The provisions of the National Electrical Safety Code, as adopted and as may be amended by the Institute of Electrical and Electronics Engineers, Inc., with regard to the video service provider's construction practices and installation of equipment.

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

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

Sec. 42. 1. A video service provider:

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

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

2. To facilitate the resolution of complaints regarding video service made by subscribers ~~to~~:

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

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

~~((b))~~ (2) Contacting the local government if the video service provider does not resolve the complaint to the satisfaction of the subscriber.

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

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

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

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

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

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

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

3. Before a local government may take the action permitted by subsection 4 ~~for 5~~ against a video service provider regarding a complaint from a subscriber:

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

(b) The video service provider must be given a period of not less than ~~5~~ 10 business days after the date on which it receives the notice from the subscriber to resolve the complaint to the satisfaction of the subscriber.

4. ~~If a subscriber files a written complaint regarding video service with a local government, the local government may impose an administrative fine against the video service provider if, after notice and an opportunity for a hearing before a hearing officer, it is proven by substantial evidence that the video service provider has, with regard to that subscriber, violated the customer service obligations that apply to the video service provider pursuant to this section. The amount of the administrative fine:~~

~~(a) For the first violation involving that subscriber in any period of 12 consecutive months, must not exceed \$250.~~

~~(b) For the second violation involving that subscriber in any period of 12 consecutive months, must not exceed \$500.~~

~~(c) For the third and any subsequent violation involving that subscriber in any period of 12 consecutive months, must not exceed \$750.~~

5. ~~If a video service provider fails to pay a fine imposed by a local government pursuant to this section or if a local government has reasonable cause to believe that a video service provider has committed persistent or repeated violations of the customer service obligations that apply to the video service provider pursuant to this section, the local government may file a written complaint with the Bureau of Consumer Protection in the Office of the Attorney General pursuant to section 60 of this act.~~

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

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

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

(a) Telecommunication service; or

(b) Interactive computer service,

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

1 **Sec. 44.** ~~1. On or after the effective date of this act, a purveyor of video~~
2 ~~service shall not enter into any agreement or other arrangement with any person~~
3 ~~that directly or indirectly~~

4 ~~— (a) Excludes another purveyor of video service from any private easement or~~
5 ~~right-of-way for the installation on real property of facilities or equipment used to~~
6 ~~provide video service;~~

7 ~~— (b) Restricts or limits access to real property on different terms and~~
8 ~~conditions among different purveyors of video service; or~~

9 ~~— (c) Grants exclusive rights to the purveyor of video service to:~~

10 ~~— (1) Install its facilities or equipment on real property during the~~
11 ~~construction or developmental phase of the real property; or~~

12 ~~— (2) Provide video service to the occupants of the real property.~~

13 ~~2. This section does not prohibit a purveyor of video service from~~
14 ~~participating in an agreement for exclusive marketing of video programming and~~
15 ~~other programming service.~~

16 ~~3. As used in this section, “purveyor of video service” means any person~~
17 ~~who furnishes video service to subscribers in this State using any form of~~
18 ~~technology or type of facilities, regardless of whether the person:~~

19 ~~— (a) Is a video service provider subject to the provisions of this chapter; or~~

20 ~~— (b) Provides video service over a video service network that is constructed in~~
21 ~~whole or in part in, on, under or over any public right-of-way or highway.]~~

22 **(Deleted by amendment.)**

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

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

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

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

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

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

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

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

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

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

46 *5. A local government may charge a video service provider a fee to issue*
47 *such a permit or license or to perform any inspection authorized by this section.*
48 *The amount of any fee charged by a local government pursuant to this subsection*
49 *may not exceed the actual costs incurred by the local government in*
50 *administering the process of issuing such permits or licenses and performing*
51 *such inspections.*

52 *6. If there is a situation necessitating emergency response work or repair in,*
53 *on, under or over any public right-of-way or highway, a video service provider*

1 *may begin that work or repair without prior approval from a local government if*
2 *the provider notifies the local government as promptly as reasonably possible*
3 *after learning of the need for that work or repair.*

4 **Sec. 46. 1.** *For the privilege of providing video service through a video*
5 *service network that occupies or uses, in whole or in part, any public right-of-way*
6 *or highway within the jurisdiction of a local government, the local government*
7 *may require a video service provider to pay a franchise fee to the local*
8 *government based on the gross revenue that the provider receives from its*
9 *subscribers within the jurisdiction of the local government.*

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

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

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

21 5. *A video service provider may:*

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

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

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

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

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

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

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

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

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

52 2. *The local government and the video service provider shall each pay its*
53 *own costs and fees relating to each review and audit performed pursuant to*

1 subsection 1, except that if the video service provider elects to have the local
2 government review and audit the requested business records of the video service
3 provider at a location outside the territorial boundaries of the local government,
4 the video service provider shall pay the per diem allowances and travel expenses
5 incurred by the local government to perform the review and audit at that location.

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

8 (a) Finding a particular result; or

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

11 4. Any action to recover a disputed underpayment of a franchise fee from a
12 video service provider must be commenced and prosecuted by the Attorney
13 General on behalf of the affected local governments.

14 5. A video service provider may bring an action against a local government
15 to recover a disputed overpayment of a franchise fee to the local government.

16 6. Any action to recover a disputed underpayment or overpayment of a
17 franchise fee must be commenced in a district court not later than 4 years after
18 the last day of the tax year to which the disputed underpayment or overpayment
19 relates.

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

23 Sec. 48. As used in sections 48 to 59, inclusive, of this act, unless the
24 context otherwise requires, the words and terms defined in sections 49 to 53,
25 inclusive, have the meanings ascribed to them in those sections.

26 Sec. 49. "Hub office" means the facility and related equipment located
27 within a video service network at which video programming is received directly or
28 indirectly from national or international content providers or broadcast networks
29 and combined with local programming and channels for signal distribution to
30 subscribers through central offices and related transmission or transport
31 facilities.

32 Sec. 50. "Locally produced video programming" means video
33 programming produced for a service area by:

34 1. One or more natural persons who reside within the service area; or

35 2. Any local government, educational institution or other public or
36 nonprofit private entity located within the service area.

37 Sec. 51. "Nonrepeat locally produced video programming" includes,
38 without limitation, the first three videocastings of an official meeting of a local
39 government.

40 Sec. 52. "PEG access channel" means a channel that videocasts PEG
41 access programming.

42 Sec. 53. "PEG access programming" means noncommercial public,
43 educational and governmental video programming or the capacity for the
44 transmission of such programming.

45 Sec. 54. For the purposes of sections 48 to 59, inclusive, of this act, a PEG
46 access channel shall be deemed to be "substantially utilized" if at least 12 hours
47 of PEG access programming, excluding any alpha-numeric programming, is
48 videocast on the PEG access channel each calendar day and at least 80 percent of
49 the PEG access programming on each calendar day is nonrepeat locally
50 produced video programming.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 3. When a local government submits its request for capacity for PEG access
11 programming, the local government must submit information which establishes
12 that each PEG access channel it has requested will be substantially utilized. If
13 one or more of the PEG access channels available under subsection 1 are being
14 used at the headend or hub office when the local government submits its request,
15 the holder is not required to make any of the remaining PEG access channels
16 available to the local government unless the local government submits
17 information which establishes that all existing PEG access channels at the
18 headend or hub office are being substantially utilized.

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

32 5. The provisions of subsection 4 do not apply to the first PEG access
33 channel which is made available to a local government that does not have a PEG
34 access channel in service on the effective date of this act.

35 **Sec. 59. 1.** A local government receiving the benefit of a PEG access
36 channel, or its designee, is responsible for producing the programming of that
37 channel and for providing that programming to the holder of a certificate. The
38 holder is responsible only for the transmission of the programming to
39 subscribers.

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

42 (a) Capable of being accepted and transmitted by the holder over its video
43 service network without alteration or change in the content or transmission
44 signal; and

45 (b) Compatible with the technology or protocol utilized by the holder to
46 deliver its video service.

47 3. A local government shall:

48 (a) Make the programming for each PEG access channel available in a
49 nondiscriminatory manner to all holders or incumbent cable operators providing
50 video service in the service area of the local government.

51 (b) Provide all facilities necessary for connectivity to a single PEG access
52 channel distribution point in the service area of the local government, except that

the first 200 feet extending from the video service network for the connectivity is the responsibility of the holder.

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

Sec. 60. 1. A video service provider or a local government may file with the Bureau of Consumer Protection ~~in the Office of the Attorney General~~ a written complaint alleging a violation of the provisions of this chapter.

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

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 ~~injunctive~~ 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 ~~apply~~:

(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}~~

(b) *A telecommunication provider* regulated by the Public Utilities Commission of Nevada where the ~~{utility}~~ *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 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 within its territorial boundaries which is governed by another governing body and which is served by one or more privately held ~~{community antenna television companies}~~ *video service providers* unless it:

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

(b) ~~{Is}~~ *Is* ~~{Except as otherwise provided in section 29.5 of this act, is}~~ required by the ~~{franchise or interlocal agreement}~~ *certificate of authority* to comply with the same *federal, state and local* requirements that apply to the privately held ~~{community antenna television companies;}~~ *video service providers with regard to that portion of the video service network which it constructs, owns, manages or operates within the jurisdiction of the other governing body;* and

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

3. *The provisions of this section do not require the governing body of a county or city, or any entity or agency that is directly or indirectly controlled by*

the county or city, to obtain a certificate of authority for a service area if it is providing video service as 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 that service area pursuant to the local franchise.

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

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

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

(b) Create a monopoly.

2. For the purposes of this section, "cost" means the expense of 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 within and upon the landlord's premises is not affected or impaired because the landlord requests compensation in an amount exceeding the sum established by rebuttable presumption pursuant to subsection 3, or files an action to assert a specific claim against the ~~{company}~~ **provider**.

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

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

8. As used in this section, "landlord" means an owner of real property, or his authorized representative, who provides a dwelling unit on the real property for occupancy by another for valuable consideration. The term includes, without


1 limitation, the lessor of a mobile home lot and the lessor or operator of a mobile
2 home park.

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

4 711.265 1. Any person who:

5 (a) By the attachment of a ground wire, or by any other contrivance, willfully
6 destroys the insulation of a ~~{telecommunications line of a community antenna~~
7 ~~television company;}~~ *wire, cable, conduit, line or similar facility of a video service*
8 *provider* or interrupts the transmission of the electric current through ~~{the line;}~~
9 *such a wire, cable, conduit, line or similar facility;*

10 (b) Willfully interferes with the use of ~~{any such line;}~~ *such a wire, cable,*
11 *conduit, line or similar facility* or obstructs or postpones the transmission of any
12 message *or signal* over ~~{the line;}~~ *such a wire, cable, conduit, line or similar*
13 *facility;* or

14 (c) Procures or advises any such injury, interference or obstruction,
15  is guilty of a public offense, as prescribed in NRS 193.155, proportionate to the
16 value of any property damaged, altered, removed or destroyed and in no event less
17 than a misdemeanor.

18 2. Any person who violates the provisions of subsection 1 is, in addition to
19 the penalty set forth in that subsection, liable to the ~~{community antenna television~~
20 ~~company;}~~ *video service provider* injured by such conduct in a civil action for all
21 damages occasioned thereby.

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

23 711.270 1. It is unlawful for a person knowingly, ~~{and}~~ with the intent to
24 intercept or receive a program or other service provided by a ~~{community antenna~~
25 ~~television company;}~~ *video service provider and* without the authorization of the
26 ~~{company;}~~ *provider,* to:

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

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

32 (c) Make or maintain a modification to a device installed by or with the
33 authorization of ~~{a community antenna television company;}~~ *the provider* to
34 intercept or receive a program or other service provided by the ~~{community antenna~~
35 ~~television company;}~~ *provider;* or

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

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

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

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

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

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

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

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

51 711.280 1. A person who violates paragraph (a), (b) or (c) of subsection 1 of
52 NRS 711.270 is, in addition to being criminally liable pursuant to NRS 711.270,
53 civilly liable to the ~~{community antenna television company;}~~ *video service provider*

1 injured by the conduct for \$3,500 or three times any actual damages incurred by the
2 company, whichever is greater, and reasonable attorney's fees.

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

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

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

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

15 37.010 Subject to the provisions of this chapter, the right of eminent domain
16 may be exercised in behalf of the following public purposes:

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

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

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

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

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

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

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

44 (b) Roads, railroads, tramways, tunnels, ditches, flumes, pipes, reservoirs,
45 dams, water gates, canals, aqueducts and dumping places to facilitate the milling,
46 smelting or other reduction of ores, the working, reclamation or dewatering of
47 mines, and for all mining purposes, outlets, natural or otherwise, for the deposit or
48 conduct of tailings, refuse, or water from mills, smelters, or other work for the
49 reduction of ores from mines, mill dams, pipelines, tanks or reservoirs for natural
50 gas or oil, an occupancy in common by the owners or possessors of different mines,
51 mills, smelters or other places for the reduction of ores, or any place for the flow,
52 deposit or conduct of tailings or refuse matter and the necessary land upon which to

erect smelters and to operate them successfully, including the deposit of fine flue dust, fumes and smoke.

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

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

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

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

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

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

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

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

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

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

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

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

(c) The Public Utilities Commission of Nevada, after giving notice and affording a hearing to all persons affected by the proposed use of the wires, conduits, cables or poles, has found that it is in the public interest.

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

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

118B.0195 "Utility" includes ~~(a)~~:

1. A public utility which provides:

~~(1.)~~ (a) Electricity;

~~(2.)~~ (b) Natural gas;

~~(3.)~~ (c) Liquefied petroleum gas;

~~(4.) Cable television;~~

~~(5.)~~ (d) Sewer services;

~~(6.)~~ (e) Garbage collection; or

~~(7.)~~ (f) Water.

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

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

205.0829 "Services" includes labor, professional services, transportation, cable television ~~(1.)~~ **or other video service**, telephone, gas or electricity services, accommodations in hotels, restaurants, leased premises or elsewhere, admissions to exhibitions and the use of vehicles or other movable property.

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

205.4743 1. "Information service" means a service that is designed or has the capability to generate, process, store, retrieve, convey, emit, transmit, receive, relay, record or reproduce any data, information, image, program, signal or sound

1 by means of any component, device, equipment, system or network, including,
2 without limitation, by means of:

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

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

6 (c) Any type of transmitter or receiver.

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

9 2. The term does not include ~~{a community antenna television company;}~~
10 *video service*, as defined in ~~{NRS 711.030}~~ *section 25 of this act*.

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

12 228.340 1. Except as otherwise provided by NRS 598A.260, all money
13 collected by the Bureau of Consumer Protection pursuant to NRS 704.033 *and*
14 *chapter 711 of NRS* and *pursuant* to those provisions *of NRS* relating to private
15 investigators and unfair trade practices must be deposited with the State Treasurer
16 for credit to the Account for the Bureau of Consumer Protection.

17 2. Money in the Account may be used only to defray the costs of maintaining
18 the Office of the Consumer's Advocate and for carrying out the provisions of NRS
19 228.300 to 228.390, inclusive.

20 3. All claims against the Account must be paid as other claims against the
21 State are paid.

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

23 228.380 1. Except as otherwise provided in this section, the Consumer's
24 Advocate may exercise the power of the Attorney General in areas of consumer
25 protection, including, but not limited to, enforcement of chapters 90, 597, 598,
26 598A, 598B, 598C ~~{and}~~, 599B *and 711* of NRS.

27 2. The Consumer's Advocate may not exercise any powers to enforce any
28 criminal statute set forth in ~~{chapters}~~ :

29 (a) *Chapters* 90, 597, 598, 598A, 598B, 598C or 599B of NRS for any
30 transaction or activity that involves a proceeding before the Public Utilities
31 Commission of Nevada if the Consumer's Advocate is participating in that
32 proceeding as a real party in interest on behalf of the customers or a class of
33 customers of utilities ~~{~~

34 ~~—2—~~ ; or

35 (b) *Chapter 711 of NRS*.

36 3. The Consumer's Advocate may expend revenues derived from NRS
37 704.033 only for activities directly related to the protection of customers of public
38 utilities.

39 ~~{3—}~~ 4. The powers of the Consumer's Advocate do not extend to proceedings
40 before the Public Utilities Commission of Nevada directly relating to discretionary
41 or competitive telecommunication services.

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

43 244.186 1. If the governing body of a county is authorized pursuant to NRS
44 711.175 to sell video ~~{programming services}~~ *service* to the general public over a
45 ~~{community antenna television system;}~~ *video service network*, the governing body,
46 and any entity or agency that is directly or indirectly controlled by the county, shall
47 not do any of the following:

48 (a) Sell such video ~~{programming services}~~ *service* at a price that is less than
49 the actual cost of the video ~~{programming services}~~ *service* or sell a bundle of
50 services containing such video ~~{programming services}~~ *service* at a price that is less
51 than the actual cost of the bundle of services.

(b) Use any money from the county general fund for the provision of such video ~~{programming services}~~ *service* over its ~~{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

1 system in private easements and public places is placed underground. The service
2 provider involved, directly or through a contractor, shall, in accordance with the
3 rules and regulations of the service provider, but subject to the regulations of the
4 Public Utilities Commission of Nevada and any other applicable laws, ordinances,
5 rules or regulations of the municipality or any other public agency under the police
6 power, convert to underground its facilities on any such lot:

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

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

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

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

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

16 278.329 A governing body or its authorized representative may relieve a
17 person who proposes to divide land pursuant to NRS 278.360 to 278.460, inclusive,
18 or 278.471 to 278.4725, inclusive, from the requirement to dedicate easements to
19 public utilities that provide gas, electric, telecommunications, water and sewer
20 services and any ~~{franchised community antenna television companies}~~ **video**
21 **service providers** pursuant to paragraph (d) or (e) of subsection 9 of NRS 278.372
22 or paragraph (c) or (d) of subsection 4 of NRS 278.472 if the person demonstrates
23 to the public body or its authorized representative that there is not an essential
24 nexus to the public purpose for the dedication and the dedication is not roughly
25 proportional in nature and extent to the impact of the proposed development.

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

27 278.372 1. The final map must be clearly and legibly drawn in permanent
28 black ink upon good tracing cloth or produced by the use of other materials of a
29 permanent nature generally used for such purpose in the engineering profession.
30 Affidavits, certificates and acknowledgments must be legibly stamped or printed
31 upon the final map with permanent black ink.

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

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

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

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

45 6. Each lot must be numbered or lettered.

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

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

49 9. The final map must show:

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

52 (b) The area of each lot and the total area of the land in the subdivision in the
53 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 have a franchise~~ **video service providers that are authorized pursuant to chapter 711 of NRS** to operate a ~~community antenna television system~~ **video service network** in that area.

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

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

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

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

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

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

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

(c) Reserving any parcel from dedication.

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

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

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

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

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

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

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

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

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

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

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

2. This map must be:

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

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

(c) Prepared by a professional land surveyor.

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

(e) 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 this purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the map with permanent black ink.

(f) Twenty-four by 32 inches in size with a marginal line 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.

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

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

4. This map must show and define:

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

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

(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 pursuant to chapter 711 of NRS* to operate a ~~{community antenna television system}~~ *video service network* in that area.

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

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

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

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

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

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

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

(a) Flat rate charges;

(b) Charges classified by the number of receivers;

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

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

(e) Minimum charges;

(f) Stand-by charges; or

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

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

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

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

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

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

~~1. Any~~ **any** charge paid pursuant to the provisions of NRS 709.110, 709.230 or 709.270. ~~for~~ **or**

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

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

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

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

354.598817 **1.** "Public utility" includes ~~for~~ **for**:

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

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

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

(c) Sells or resells personal wireless services.

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

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

354.598818 "Revenue" does not include:

1. Any proceeds from the interstate sale of natural gas to a provider of electric energy that holds a certificate of public convenience and necessity issued by the Public Utilities Commission of Nevada; **or**

2. Any revenue of a provider of a telecommunication service other than intrastate revenue that the provider collects from retail customers. ~~for~~ **or**

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

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

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

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

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

(c) *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;*

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

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

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

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

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

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

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

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

2 360.825 1. Except as otherwise provided in this section, if on or after July 1,
3 2003, a local government acquires from another entity a public utility that provides
4 electric service, natural gas service, telecommunications service or community
5 antenna television, **cable television or other video** service:

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

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

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

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

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

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

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

37 3. The provisions of this section do not:

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

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

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

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

52 360.830 1. Except as otherwise provided in this section, if on or after July 1,
53 2003, a local government:

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

3 (b) Expands facilities for the provision of water service, sewer service, electric
4 service, natural gas service, telecommunications service or community antenna
5 television, **cable television or other video** service, and the expansion results in the
6 local government serving additional retail customers who were, before the
7 expansion, retail customers of a public utility which provided that service,

8 ➤ the local government shall enter into an interlocal agreement with each affected
9 local government to compensate the affected local government each fiscal year, as
10 nearly as practicable, for the amount of any money from state and local taxes and
11 franchise fees and from payments in lieu of those taxes and franchise fees, and for
12 any compensation from a local government pursuant to this section, the affected
13 local government would be entitled to receive but will not receive because of the
14 acquisition of that public utility or expansion of those facilities as provided in this
15 section.

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

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

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

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

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

29 361.320 1. At the regular session of the Nevada Tax Commission
30 commencing on the first Monday in October of each year, the Nevada Tax
31 Commission shall examine the reports filed pursuant to NRS 361.318 and establish
32 the valuation for assessment purposes of any property of an interstate or intercounty
33 nature used directly in the operation of all interstate or intercounty railroad,
34 sleeping car, private car, natural gas transmission and distribution, water, telephone,
35 scheduled and unscheduled air transport, electric light and power companies, and
36 the property of all railway express companies operating on any common or contract
37 carrier in this State. This valuation must not include the value of vehicles as defined
38 in NRS 371.020.

39 2. Except as otherwise provided in subsections 3, 4 and 7 and NRS 361.323,
40 the Nevada Tax Commission shall establish and fix the valuation of all physical
41 property used directly in the operation of any such business of any such company in
42 this State, as a collective unit. If the company is operating in more than one county,
43 on establishing the unit valuation for the collective property, the Nevada Tax
44 Commission shall then determine the total aggregate mileage operated within the
45 State and within its several counties and apportion the mileage upon a mile-unit
46 valuation basis. The number of miles apportioned to any county are subject to
47 assessment in that county according to the mile-unit valuation established by the
48 Nevada Tax Commission.

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

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

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

6. If two or more persons perform separate functions that collectively are needed to deliver electric service to the final customer and the property used in performing the functions would be centrally assessed if owned by one person, the Nevada Tax Commission shall establish its valuation and apportion the valuation among the several counties in the same manner as the valuation of other centrally assessed property. The Nevada Tax Commission shall determine the proportion of the tax levied upon the property by each county according to the valuation of the contribution of each person to the aggregate valuation of the property. This subsection does not apply to a qualifying facility, as defined in 18 C.F.R. § 292.101, which was constructed before July 1, 1997, or to an exempt wholesale generator, as defined in 15 U.S.C. § 79z-5a.

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

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

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

10. For the purposes of this section, an unscheduled air transport company does not include a company that only uses three or fewer fixed-wing aircraft with a weight of less than 12,500 pounds to provide transportation services, if the

company elects, in the form and manner prescribed by the Department, to have the property of the company assessed by a county assessor.

11. As used in this section:

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

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

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

1 in connection therewith, to be transactions that are taxable pursuant to the
2 provisions of this chapter.

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

4 374.728 In administering the provisions of this chapter, the Department shall
5 construe the term "retailer maintaining a place of business in a county" to include:

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

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

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

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

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

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

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

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

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

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

44 374.739 In administering the provisions of this chapter, the Department shall
45 not consider the activities of persons that are directly related to the process of
46 transmitting radio, television, cable television, *video* or data signals, including the
47 transmission of news or information by *video or* data signal, the transmission of
48 signals from one broadcaster to another and from a broadcaster to a member of the
49 public and including the production and airing of any form of speech or broadcast
50 by radio or television, whether or not compensation is provided to the broadcaster
51 in connection therewith, to be transactions that are taxable pursuant to the
52 provisions of this chapter.

Sec. 99. NRS 425.393 is hereby amended to read as follows:
425.393 1. The Chief may request the following information to carry out the provisions of this chapter:

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

- (1) The State Registrar of Vital Statistics;
- (2) Agencies responsible for maintaining records relating to state and local taxes and revenue;
- (3) Agencies responsible for keeping records concerning real property and personal property for which a title must be obtained;
- (4) All boards, commissions and agencies that issue occupational or professional licenses, certificates or permits;
- (5) The Secretary of State;
- (6) The Employment Security Division of the Department of Employment, Training and Rehabilitation;
- (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 ~~feable antenna television system~~ *video service provider operating pursuant to chapter 711 of NRS* or a business which provides communication services, while the 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 ~~feompany~~ *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;

(b) The number of each item or prize to be awarded; and

(c) The odds of receiving each item or prize, expressed in whole numbers.

3. It is unlawful to make a representation described in subsection 1 if it has already been determined which items will be given to the person to whom the representation is made.

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

(a) Participants are asked to complete and mail or deposit, at a local retail commercial establishment, an entry blank obtained locally or by mail, or to call in their entry by telephone; and

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

5. Advertisements with representations made pursuant to subsection 1 that are broadcast by radio or television may be broadcast without the required disclosures,

conditions and restrictions but must clearly broadcast the availability of such disclosures, conditions and restrictions to an interested person, without any charge, upon request.

6. This section does not create liability for acts of a publisher, owner, agent or employee of a newspaper, periodical, radio station, television station, cable television system *or other video service network* or other advertising medium for the publication or dissemination of an advertisement or promotion pursuant to this section if the publisher, owner, agent or employee did not know that the advertisement or promotion violated the provisions of this section.

7. For the purposes of this section, the actual retail value of an item or prize is the price at which substantial sales of the item were made in an area within the last 90 days, or if no substantial sales were made, the cost of the item or prize to the person on whose behalf the contest or promotion is conducted.

Sec. 104. NRS 598A.040 is hereby amended to read as follows:

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

1. Any labor, agricultural or horticultural organizations organized for the purpose of self-help and not for profit to itself nor to individual members thereof, while lawfully carrying out its legitimate objects.

2. Bona fide religious and charitable activities of any nonprofit corporation, trust or organization established exclusively for religious or charitable purposes.

3. Conduct which is expressly authorized, regulated or approved by:

(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:

1 (a) The fees, dues, fines, assessments or services confer a bona fide right,
2 privilege, professional standing, honor or other direct benefit upon the member; and
3 (b) Membership in the organization is not conferred solely in consideration for
4 making a donation in response to a solicitation.

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

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

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

13 9. "Salesman" means any person:

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

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

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

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

20 (2) For the purpose of verifying, changing or confirming an order,
21 except that a person is not a salesman if his only function is to identify a
22 consumer by name only and he immediately refers the consumer to a salesman.

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

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

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

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

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

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

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

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

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

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

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

50 (3) That if the consumer buys one or more goods or services from the
51 person, the consumer will also receive additional or other goods or services,
52 whether or not the same type as purchased, without further cost or at a cost that the
53 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 solicitor and the consumer, if the person, after soliciting a sale by telephone, does not cause another person to collect the payment from or deliver any goods or services purchased to the consumer.

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

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

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

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

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

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

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

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

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

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

(1) The person is registered with or temporarily licensed by the Commission to conduct that activity pursuant to the Commodity Exchange Act, ~~16~~ 7 U.S.C. §§ 1 et seq. ; ~~D~~ and

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

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

(1) Making the solicitation; or

(2) On whose behalf the solicitation is made.

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

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

- (1) Does not offer the customer any premium in connection with the sale;
- (2) Is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and
- (3) Is not regularly engaged in telephone sales.
- (x) A person who solicits the sale of livestock.
- (y) An issuer which has a class of securities that is listed on the New York Stock Exchange, the American Stock Exchange or the National Market System of the National Association of Securities Dealers Automated Quotation System.
- (z) A subsidiary of an issuer that qualifies for exemption pursuant to paragraph (y) if at least 60 percent of the voting power of the shares of the subsidiary is owned by the issuer.

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

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

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

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

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

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

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

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

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

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

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

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

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

2. The term includes, without limitation:

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

(b) A site that is identifiable through a Uniform Resource Location;

(c) A site on a computer network that is owned, operated, administered or controlled by a provider of Internet service;

(d) An electronic bulletin board;

(e) A list server;

(f) A newsgroup; or

(g) A chat room.

1 Sec. 105.7. *“Provider of Internet service” or “provider” means any person*
2 *who, for a fee or other consideration, provides subscribers with access to the*
3 *Internet or any other computer network.*

4 Sec. 105.8. *For the purposes of sections 105.3 to 106.2, inclusive, of this*
5 *act, a person has “reasonable cause to believe” if, in light of all the surrounding*
6 *facts and circumstances which are known or which reasonably should be known*
7 *to the person at the time, a reasonable person would believe, under those facts*
8 *and circumstances, that an act, transaction, event, situation or condition exists, is*
9 *occurring or has occurred.*

10 Sec. 106. 1. *If a provider of Internet service knows or has reasonable*
11 *cause to believe that a subscriber resides within this State, the provider shall*
12 *make available to the subscriber a product or service which enables the*
13 *subscriber to regulate a child’s use of the Internet service provided to the*
14 *subscriber ~~if~~ if such a product or service is reasonably and commercially*
15 *available for the technology utilized by the subscriber to access the Internet*
16 *service. The product or service must , subject to such availability, enable the*
17 *subscriber to:*

18 (a) *Block all access to the Internet;*

19 (b) *Block access to specific websites or domains disapproved by the*
20 *subscriber;*

21 (c) *Restrict access exclusively to specific websites or domains approved by the*
22 *subscriber; and*

23 (d) *Allow the subscriber to monitor a child’s use of the Internet service by*
24 *providing a report to the subscriber of the specific websites or domains that the*
25 *child has visited or has attempted to visit but could not access because the*
26 *websites or domains were blocked or restricted by the subscriber.*

27 2. *For the purposes of subsection 1, a provider of Internet service shall be*
28 *deemed to know that a subscriber resides within this State if the subscriber*
29 *identifies Nevada as his place of residence at the time of subscription.*

30 3. ~~*If a product or service described in subsection 1 is reasonably and*~~
31 ~~*commercially available for the technology utilized by the subscriber to access the*~~
32 ~~*Internet service, the provider of Internet service:*~~

33 (a) *Shall provide to the subscriber, at the time of subscription, notice of the*
34 *availability of the product or service described in subsection 1. The notice must be*
35 *provided to the subscriber by electronic mail or in a written form through another*
36 *reasonable means.*

37 (b) *May make the product or service described in subsection 1 available to*
38 *the subscriber either directly or through a third-party vendor. The provider or*
39 *third-party vendor may charge the subscriber a fee for the product or service.*

40 Sec. 106.2. 1. *Any violation of sections 105.3 to 106.2, inclusive, of this*
41 *act constitutes a deceptive trade practice ~~for the purposes of the civil and~~*
42 ~~*administrative remedies and penalties set forth in*~~ *subject to NRS 598.0903 to*
43 *598.0999, inclusive.*

44 2. *The remedies, duties and prohibitions set forth in sections 105.3 to 106.2,*
45 *inclusive, of this act are not exclusive and are in addition to any other remedies,*
46 *duties and prohibitions provided by law.*

47 Sec. 106.4. NRS 603.010 is hereby amended to read as follows:

48 603.010 As used in ~~*this chapter*~~ *NRS 603.010 to 603.090, inclusive*, unless
49 the context otherwise requires, the words and terms defined in NRS 603.020 and
50 603.030, have the meanings ascribed to them in those sections.

51 Sec. 106.6. NRS 603.090 is hereby amended to read as follows:

52 603.090 The civil remedies provided in ~~*this chapter*~~ *NRS 603.010 to*
53 *603.090, inclusive:*

1 1. Do not preclude the prosecution of a defendant under the penal laws of this
2 State.

3 2. Are in addition to any rights or remedies to which the owner of a
4 proprietary program or data stored in a computer is entitled under the common law.

5 **Sec. 106.8.** NRS 618.880 is hereby amended to read as follows:

6 618.880 1. The Division shall adopt regulations establishing standards and
7 procedures for the operation of cranes, including, without limitation, regulations
8 requiring the:

9 (a) Establishment and implementation of site safety plans and procedures for
10 the erection and dismantling of tower cranes;

11 (b) Establishment of a clear zone around the erection, dismantling or other
12 highly hazardous lifts with a crane;

13 (c) Annual certification of the mechanical lifting parts of the crane; and

14 (d) Certification of tower cranes each time a tower crane is erected and
15 additional annual certifications of tower cranes while they continue to be in use.

16 2. Except as otherwise provided in subsection 3:

17 (a) The Division shall adopt regulations requiring the establishment and
18 implementation of programs for the certification of all persons who operate:

19 (1) Tower cranes; or

20 (2) Mobile cranes having a usable boom length of 25 feet or greater or a
21 maximum machine rated capacity of 15,000 pounds or greater.

22 (b) A person shall not operate a tower crane or a mobile crane described in
23 subparagraph (2) of paragraph (a) unless the person holds certification as a crane
24 operator issued pursuant to this subsection for the type of crane being operated.

25 (c) An applicant for certification as a crane operator must hold a certificate
26 which:

27 (1) Is issued by an organization whose program of certification for crane
28 operators:

29 (I) Is accredited by the National Commission for Certifying Agencies
30 or an equivalent accrediting body approved by the Division; or

31 (II) Meets other criteria established by the Division; and

32 (2) Certifies that the person has met the standards to be a crane operator
33 established by the American Society of Mechanical Engineers in its standards
34 B30.3, B30.4 or B30.5 as adopted by regulation of the Division.

35 3. The provisions of subsection 2 do not apply to a person who:

36 (a) Is an employee of a utility while the person is engaged in work for or at the
37 direction of the utility;

38 (b) Operates an electric or utility line truck that is regulated pursuant to 29
39 C.F.R. § 1910.269 or 29 C.F.R. Part 1926, Subpart V; or

40 (c) Operates an aerial or lifting device, whether or not self-propelled, that is
41 designed and manufactured with the specific purpose of lifting one or more persons in
42 a bucket or basket or on a ladder or platform and holding those persons in the
43 lifted position while they perform tasks. Such devices include, without limitation:

44 (1) A bucket truck or lift;

45 (2) An aerial platform;

46 (3) A platform lift; or

47 (4) A scissors lift.

48 4. As used in this section, "utility" means any public or private utility,
49 whether or not the utility is subject to regulation by the Public Utilities Commission
50 of Nevada, that provides, at wholesale or retail:

51 (a) Electric service;

52 (b) Gas service;

53 (c) Water or sewer service;

(d) Telecommunication service, including, without limitation, local exchange service, long distance service and personal wireless service; or

(e) Television service, including, without limitation, community antenna television, *cable television and other video* service.

Sec. 107. NRS 624.218 is hereby amended to read as follows:

624.218 1. The Board shall adopt by regulation a classification of licensing for persons who construct or improve ~~community antenna television systems.~~ *video service networks*. Except as otherwise provided in subsection 2, a person who engages in such construction, alteration or improvement must be licensed in this classification and may not be required to be licensed in any other classification.

2. The licensing requirements adopted pursuant to subsection 1 do not apply to a person who is engaged solely in the alteration or repair of antennae used by a community antenna television system.

3. As used in this section, "video service network" has the meaning ascribed to it in section 26 of this act.

Sec. 108. 1. NRS 318.1193, 318.1194, 354.598811, 711.185, 711.190, 711.200, 711.210, 711.230 and 711.250 are hereby 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.**