

Amendment No. 991

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

Proposed by: Senator Townsend

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

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: 5/25/2007

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:

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

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

8 To promote competition in the cable industry, the federal Cable Act prohibits a local
9 government from granting an exclusive franchise or unreasonably refusing to grant
10 competitive franchises. The federal Cable Act also prohibits a local government from
11 imposing a franchise fee that exceeds 5 percent of a cable operator's gross revenue. (47
12 U.S.C. §§ 541, 542)

13 This bill repeals the existing statutory scheme of regulating video service through local
14 franchises and replaces it with a statutory scheme that is intended to promote more
15 competition in the market for such service. This bill applies to community antenna television
16 companies, cable operators and other video service providers. However, this bill allows an
17 existing franchise holder to continue operating under its local franchise until that franchise
18 expires, and this bill also allows a local government in a county whose population is less than
19 100,000 (currently counties other than Clark and Washoe Counties) to renew or extend the
20 term of a local franchise.

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

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

31 Finally, this bill requires a provider of Internet service, under certain circumstances, to
32 make available to subscribers in this State products or services which enable the subscribers
33 to block, restrict and monitor a child's Internet activities. This bill authorizes the provider to
34 charge a fee to those subscribers who elect to use the products or services. A provider of
35 Internet service that fails to comply with the requirements commits a deceptive trade practice
36 and is subject to the procedures for administrative enforcement and the remedies and penalties
37 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:

1 **Section 1.** NRS 704.030 is hereby amended to read as follows:

2 704.030 "Public utility" or "utility" does not include:

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

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

8 (a) They serve 25 persons or less; and

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

11 3. Persons not otherwise engaged in the business of furnishing, producing or
12 selling water or services for the disposal of sewage, or both, but who sell or furnish
13 water or services for the disposal of sewage, or both, as an accommodation in an
14 area where water or services for the disposal of sewage, or both, are not available
15 from a public utility, cooperative corporations and associations or political
16 subdivisions engaged in the business of furnishing water or services for the disposal
17 of sewage, or both, for compensation, to persons within the political subdivision.

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

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

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

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

28 *8. Persons who are video service providers, as defined in section 27 of this*
29 *act, except for those operations of the video service provider which consist of*
30 *providing a telecommunication service to the public, in which case the video*
31 *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 to*
29 *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*

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

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

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

7 (f) *Any tax of general applicability.*

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

11 (h) *Late payment fees collected from subscribers.*

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

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

18 Sec. 14. *“Information service” has the meaning ascribed to it in 47 U.S.C.*
19 *§ 153(20), as that section existed on January 1, 2007.*

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

22 Sec. 16. *“Jurisdiction of a local government” means:*

- 23 1. *In the case of a city, the corporate limits of the city.*
- 24 2. *In the case of a county, the unincorporated area of the county.*

25 Sec. 17. 1. *“Local franchise” means any franchise, agreement, permit,*
26 *license or similar authorization, regardless of its name, which:*

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

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

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

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

38 Sec. 18. *“Local law” means any charter, code, ordinance, regulation or*
39 *other law of a local government.*

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

42 Sec. 20. *“Service area” means the geographical territory in this State*
43 *within which a video service provider is authorized to provide video service*
44 *pursuant to a certificate of authority or local franchise.*

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

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

50 Sec. 22. *“Telecommunication” means the transmission, between or among*
51 *points specified by the user, of information of the user’s choosing, without*
52 *change in the form or content of the information sent and received, regardless of*
53 *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)** *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 sections 32 and 32.5 of this act to*
49 *continue to operate within its service area pursuant to the local franchise.*

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

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

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

8 2. *The Secretary of State:*

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

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

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

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

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

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

22 ↳ *except that a local government in a county whose population is less than*
23 *100,000 may renew or extend the term of an unexpired local franchise of an*
24 *incumbent cable operator which has elected pursuant to sections 32 and 32.5 of*
25 *this act to continue to operate within its service area pursuant to the local*
26 *franchise;*

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

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

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

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

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

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

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

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

48 4. *A person may elect to apply for a certificate of authority that permits, but*
49 *does not require, the person to provide video service within one or more service*
50 *areas located anywhere in this State as designated in the application and affidavit*
51 *filed by the person pursuant to section 33 of this act. If a person applies for such*
52 *a certificate of authority, the certification fee for issuing the certificate of*
53 *authority to the person pursuant to sections 33 and 34 of this act is \$25,000. The*

1 *Secretary of State may charge and collect the certification fee pursuant to this*
2 *subsection only once from each such person.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (a) A description of each service area designated by the applicant in which
2 the applicant intends to provide video service and a map of each such service area
3 that shows the territorial boundaries of each local government located, in whole
4 or in part, within the service area.

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

7 (c) Certifications that the applicant:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 **Sec. 39.** *1. Not later than 24 months after the date on which the Secretary*
53 *of State issues a certificate of authority pursuant to sections 33 and 34 of this act*

1 *or an amended certificate of authority pursuant to section 35 of this act, the*
2 *holder of the certificate must have the capability to offer and provide video*
3 *service to at least one subscriber who resides within the territorial boundaries of*
4 *each service area authorized by the certificate or the amended certificate.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 *(a) The provisions of 47 U.S.C. § 551, as that section existed on January 1,*
46 *2007.*

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

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

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

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

5 (a) *Shall comply with the provisions of 47 C.F.R. §§ 76.309, 76.1601 to*
6 *76.1604, inclusive, and 76.1618 to 76.1622, inclusive, as adopted and as may be*
7 *amended by the Federal Communications Commission, with regard to the*
8 *standards governing the quality of video service and customer service; and*

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

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

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

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

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

19 *↪ The video service provider shall provide such instructions to the subscriber in*
20 *each bill and in any service-related notice or other direct correspondence which*
21 *the video service provider sends to the subscriber and which is related to that*
22 *subscriber's video service. For the purposes of this paragraph, "service-related*
23 *notice or other direct correspondence" does not include general advertising,*
24 *marketing, promotional or public service materials that the video service provider*
25 *sends to other subscribers or the public generally.*

26 (b) *Each local government which is located in a county whose population is*
27 *25,000 or more and which collects a franchise fee pursuant to section 46 of this*
28 *act shall establish a process to:*

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

32 (2) *Respond to inquiries from subscribers and disseminate information to*
33 *those subscribers regarding the standards governing the quality of video service*
34 *and customer service prescribed by subsection 1 and the procedures available to*
35 *subscribers to resolve complaints with such video service providers;*

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

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

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

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

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

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

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

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

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

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

14 (a) *Telecommunication service; or*

15 (b) *Interactive computer service,*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 5. *A video service provider may:*

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

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

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

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

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

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

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

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

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

49 2. *The local government and the video service provider shall each pay its*
50 *own costs and fees relating to each review and audit performed pursuant to*
51 *subsection 1, except that if the video service provider elects to have the local*
52 *government review and audit the requested business records of the video service*
53 *provider at a location outside the territorial boundaries of the local government,*

1 *the video service provider shall pay the per diem allowances and travel expenses*
2 *incurred by the local government to perform the review and audit at that location.*

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

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

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

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

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

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

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

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

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

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

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

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

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

37 **Sec. 52.** *“PEG access channel” means a channel that videocasts PEG*
38 *access programming.*

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

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

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

51 2. *The provisions of sections 48 to 59, inclusive, of this act do not prevent a*
52 *video service provider from changing the channel number assigned to any PEG*
53 *access channel, including, without limitation, any existing PEG access channel*

1 *in service on the effective date of this act. If a video service provider intends to*
2 *change the channel number assigned to any PEG access channel, the provider:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50 2. *The number of PEG access channels set forth in subsection 1 constitutes*
51 *the total number of PEG access channels that the holder may be required to*
52 *designate on any single video service network utilizing a single headend or hub*
53 *office, or on all commonly owned video service networks that share a common*

1 *headend or hub office, regardless of the number of local governments served*
2 *from that headend or hub office. If more than one local government is served by*
3 *a single or common headend or hub office, the populations within the*
4 *jurisdictions of all those local governments must be aggregated to determine the*
5 *total number of PEG access channels under subsection 1.*

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

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

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

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

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

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

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

43 3. *A local government shall:*

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

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

51 4. *Where necessary and technically feasible, holders or incumbent cable*
52 *operators shall use reasonable efforts to interconnect their video service networks*
53 *for the purpose of exchanging PEG access channel programming on mutually*

1 acceptable rates, terms and conditions. Interconnection may be accomplished by
2 direct cable microwave link, satellite or other reasonable methods of connection.
3 Holders and incumbent cable operators shall negotiate interconnection in good
4 faith. The person requesting interconnection is responsible for any costs,
5 including, without limitation, signal transmission from the origination point to
6 the point of interconnection.

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

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

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

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

26 5. The provisions of this section do not:

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

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

31 6. As used in this section:

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

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

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

37 711.020 ~~{The words and phrases} As used in this chapter {have the meanings~~
38 ~~ascribed to them} , unless the context otherwise requires, the words and terms~~
39 ~~defined in NRS 711.030 to 711.074, inclusive, {unless a different meaning clearly~~
40 ~~appears in the context.} and sections 3 to 27, inclusive, of this act have the~~
41 ~~meanings ascribed to them in those sections.~~

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

43 711.030 1. "Community antenna television company" means any person ~~for~~
44 ~~organization which} who owns, controls, operates or manages a community antenna~~
45 ~~television system . {except that the definition}~~

46 2. The term does not include:

47 ~~{1.—A telephone, telegraph}~~

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

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

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

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

7 711.040 1. "Community antenna television system" means any facility , or
8 *any component thereof, which is:*

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

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

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

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

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

20 ↪ to members of the public who subscribe to the service.

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

22 (a) Fewer than 50 subscribers; or

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

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

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

30 711.060 "Facility" means all real property, antennae, poles, wires, cables,
31 conduits, amplifiers, instruments, appliances, fixtures and other personal property
32 used by a ~~{community antenna television company}~~ *video service provider* to
33 provide service to its subscribers.

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

35 711.074 1. "Local government" means any city or county . ~~{which has the~~
36 ~~power to grant a franchise under NRS 711.190.}~~

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

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

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

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

44 711.175 1. Except as otherwise provided in subsection 2 and NRS 318.1192
45 : ~~{ 318.1193 and 318.1194.}~~

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

50 (b) The governing body of a city whose population is 25,000 or more, and any
51 entity or agency that is directly or indirectly controlled by such a city, shall not sell
52 ~~{the services of a community antenna television system}~~ *video service* to the general
53 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 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.*

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

2 711.240 1. Except with respect to reasonable promotional activities, a
3 ~~{person}~~ **video service provider** shall not advertise, offer to provide or provide any
4 **video** service to subscribers ~~{of television services}~~ at a rate, including any rebate,
5 less than the cost to the ~~{company}~~ **video service provider** to provide ~~{the service~~
6 ~~which is advertised, offered or provided}~~ **that service** with the intent to:

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

9 (b) Create a monopoly.

10 2. For the purposes of this section, “cost” means the expense of doing
11 business including, without limitation, expenses for labor, rent, depreciation,
12 interest, maintenance, delivery of the **video** service, franchise fees, taxes, insurance
13 and advertising.

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

22 ~~4.~~ A violation of subsection 1 constitutes a prohibited act under NRS
23 598A.060. The Attorney General and any other person may exercise the powers
24 conferred by that chapter to prevent, remedy or punish such a violation. The
25 provisions of chapter 598A of NRS apply to any such violation.

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

27 711.255 1. A landlord shall not:

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

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

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

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

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

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

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

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

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

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

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

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

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

32 5. The ~~{company's}~~ right *of a video service provider* to construct, install or
 33 repair its facilities and maintain its services within and upon the landlord's premises
 34 is not affected or impaired because the landlord requests compensation in an
 35 amount exceeding the sum established by rebuttable presumption pursuant to
 36 subsection 3, or files an action to assert a specific claim against the ~~{company}~~
 37 *provider*.

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

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

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

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

52 711.265 1. Any person who:

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

6 (b) Willfully interferes with the use of ~~{any such line;} such a wire, cable,~~
 7 ~~conduit, line or similar facility~~ or obstructs or postpones the transmission of any
 8 message ~~or signal~~ over ~~{the line;} such a wire, cable, conduit, line or similar~~
 9 ~~facility;~~ or

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

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

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

19 711.270 1. It is unlawful for a person knowingly, ~~{and}~~ with the intent to
 20 intercept or receive a program or other service provided by a ~~{community antenna~~
 21 ~~television company;} video service provider and~~ without the authorization of the
 22 ~~{company;} provider,~~ to:

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

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

28 (c) Make or maintain a modification to a device installed by or with the
 29 authorization of ~~{a community antenna television company;} the provider~~ to
 30 intercept or receive a program or other service provided by the ~~{community antenna~~
 31 ~~television company;} provider;~~ or

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

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

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

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

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

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

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

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

47 711.280 1. A person who violates paragraph (a), (b) or (c) of subsection 1 of
 48 NRS 711.270 is, in addition to being criminally liable pursuant to NRS 711.270,
 49 civilly liable to the ~~{community antenna television company;} video service provider~~
 50 injured by the conduct for \$3,500 or three times any actual damages incurred by the
 51 company, whichever is greater, and reasonable attorney's fees.

52 2. A person who violates paragraph (d) of subsection 1 of NRS 711.270 is, in
 53 addition to being criminally liable pursuant to NRS 711.270, civilly liable to the

1 ~~{community antenna television company}~~ *video service provider* injured by the
2 conduct for \$5,000 or three times any actual damages incurred by the company,
3 whichever is greater, and reasonable attorney's fees.

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

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

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

11 37.010 Subject to the provisions of this chapter, the right of eminent domain
12 may be exercised in behalf of the following public purposes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 16. ~~{Community antenna television companies. Community antenna~~
16 ~~television companies which have been granted a franchise from the governing body~~
17 ~~of the jurisdictions in which they provide services.}~~ *Video service providers. Video*

18 *service providers that are authorized pursuant to chapter 711 of NRS to operate a*
19 *video service network.* The exercise of the power of eminent domain may include
20 the right to use the wires, conduits, cables or poles of any public utility if:

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

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

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

26 17. Redevelopment. The acquisition of property pursuant to NRS 279.382 to
27 279.685, inclusive.

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

29 118B.0195 "Utility" includes ~~{a}~~ :

30 1. A public utility which provides:

31 ~~{1-}~~ (a) Electricity;

32 ~~{2-}~~ (b) Natural gas;

33 ~~{3-}~~ (c) Liquefied petroleum gas;

34 ~~{4-}~~ ~~Cable television;~~

35 ~~—5-}~~ (d) Sewer services;

36 ~~{6-}~~ (e) Garbage collection; or

37 ~~{7-}~~ (f) Water.

38 2. *A video service provider which provides video service pursuant to chapter*
39 *711 of NRS.*

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

41 205.0829 "Services" includes labor, professional services, transportation,
42 cable television ~~{t}~~ *or other video service*, telephone, gas or electricity services,
43 accommodations in hotels, restaurants, leased premises or elsewhere, admissions to
44 exhibitions and the use of vehicles or other movable property.

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

46 205.4743 1. "Information service" means a service that is designed or has
47 the capability to generate, process, store, retrieve, convey, emit, transmit, receive,
48 relay, record or reproduce any data, information, image, program, signal or sound
49 by means of any component, device, equipment, system or network, including,
50 without limitation, by means of:

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

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

1 (c) Any type of transmitter or receiver.

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

4 2. The term does not include ~~fa community antenna television company;~~
5 *video service*, as defined in ~~NRS 711.030;~~ *section 25 of this act.*

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

7 228.340 1. Except as otherwise provided by NRS 598A.260, all money
8 collected by the Bureau of Consumer Protection pursuant to NRS 704.033 *and*
9 *chapter 711 of NRS* and *pursuant* to those provisions *of NRS* relating to private
10 investigators and unfair trade practices must be deposited with the State Treasurer
11 for credit to the Account for the Bureau of Consumer Protection.

12 2. Money in the Account may be used only to defray the costs of maintaining
13 the Office of the Consumer's Advocate and for carrying out the provisions of NRS
14 228.300 to 228.390, inclusive.

15 3. All claims against the Account must be paid as other claims against the
16 State are paid.

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

18 228.380 1. Except as otherwise provided in this section, the Consumer's
19 Advocate may exercise the power of the Attorney General in areas of consumer
20 protection, including, but not limited to, enforcement of chapters 90, 597, 598,
21 598A, 598B, 598C ~~and~~, 599B *and 711* of NRS.

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

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

29 ~~—2—~~ ; or

30 (b) *Chapter 711 of NRS.*

31 3. The Consumer's Advocate may expend revenues derived from NRS
32 704.033 only for activities directly related to the protection of customers of public
33 utilities.

34 ~~3—~~ 4. The powers of the Consumer's Advocate do not extend to proceedings
35 before the Public Utilities Commission of Nevada directly relating to discretionary
36 or competitive telecommunication services.

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

38 244.186 1. If the governing body of a county is authorized pursuant to NRS
39 711.175 to sell video ~~programming services~~ *service* to the general public over a
40 ~~community antenna television system;~~ *video service network*, the governing body,
41 and any entity or agency that is directly or indirectly controlled by the county, shall
42 not do any of the following:

43 (a) Sell such video ~~programming services~~ *service* at a price that is less than
44 the actual cost of the video ~~programming services~~ *service* or sell a bundle of
45 services containing such video ~~programming services~~ *service* at a price that is less
46 than the actual cost of the bundle of services.

47 (b) Use any money from the county general fund for the provision of such
48 video ~~programming services~~ *service* over its ~~community antenna television~~
49 ~~system;~~ *video service network.*

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

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

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

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

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

10 4. As used in this section:

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

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

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

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

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

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

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

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

25 271.204 "Service facilities" means any works or improvements used or useful
26 in providing:

27 1. Electric or communication service; or

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

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

34 **Sec. 79.** NRS 271.2045 is hereby amended to read as follows:

35 271.2045 "Service provider" means:

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

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

42 including, but not limited to, by means of service facilities.

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

44 271.850 1. The service facilities within the boundaries of each lot within a
45 district to finance an underground conversion project established pursuant to NRS
46 271.800 must be placed underground at the same time as or after the underground
47 system in private easements and public places is placed underground. The service
48 provider involved, directly or through a contractor, shall, in accordance with the
49 rules and regulations of the service provider, but subject to the regulations of the
50 Public Utilities Commission of Nevada and any other applicable laws, ordinances,
51 rules or regulations of the municipality or any other public agency under the police
52 power, convert to underground its facilities on any such lot:

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

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

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

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

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

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

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

20 278.372 1. The final map must be clearly and legibly drawn in permanent
21 black ink upon good tracing cloth or produced by the use of other materials of a
22 permanent nature generally used for such purpose in the engineering profession.
23 Affidavits, certificates and acknowledgments must be legibly stamped or printed
24 upon the final map with permanent black ink.

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

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

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

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

38 6. Each lot must be numbered or lettered.

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

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

42 9. The final map must show:

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

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

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

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

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

52 (d) Except as otherwise provided in NRS 278.329, an easement for public
53 utilities that provide gas, electric and telecommunications services and for any

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

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

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

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

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

16 278.374 1. Except as otherwise provided in subsection 2, a final map
17 presented for filing must include a certificate signed and acknowledged, in the
18 manner provided in NRS 240.1665 or 240.167, by each person who is an owner of
19 the land:

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

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

23 (c) Reserving any parcel from dedication.

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

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

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

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

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

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

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

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

48 (1) The final map; or

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

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

53 (a) A lien for taxes or special assessments.

1 (b) A trust interest under a bond indenture.
2 5. As used in this section, “guarantee” means a guarantee of the type filed
3 with the Commissioner of Insurance pursuant to paragraph (e) of subsection 1 of
4 NRS 692A.120.

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

6 278.4713 1. Unless the filing of a tentative map is waived, a person who
7 proposes to make a division of land pursuant to NRS 278.471 to 278.4725,
8 inclusive, must first:

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

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

13 2. This map must be:

14 (a) Entitled “Tentative Map of Division into Large Parcels”; and

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

16 3. This map must show:

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

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

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

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

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

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

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

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

35 278.472 1. After the planning commission or the governing body or its
36 authorized representative has approved the tentative map or waived the requirement
37 of its filing, or 60 days after the date of its filing, whichever is earlier, the person
38 who proposes to divide the land may file a final map of the division with the
39 governing body or its authorized representative or, if authorized by the governing
40 body, with the planning commission. The map must be accompanied by a written
41 statement signed by the treasurer of the county in which the land to be divided is
42 located indicating that all property taxes on the land for the fiscal year have been
43 paid.

44 2. This map must be:

45 (a) Entitled “Map of Division into Large Parcels.”

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

51 (c) Prepared by a professional land surveyor.

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

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

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

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

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

16 4. This map must show and define:

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

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

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

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

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

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

33 318.1192 In the case of a district created wholly or in part for acquiring
34 television maintenance facilities, the board shall have power to:

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

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

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

43 (a) Flat rate charges;

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

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

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

48 (e) Minimum charges;

49 (f) Stand-by charges; or

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

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

1 **Sec. 87.** NRS 354.59881 is hereby amended to read as follows:
2 354.59881 As used in NRS 354.59881 to 354.59889, inclusive, unless the
3 context otherwise requires, the words and terms defined in NRS ~~[354.59881]~~
4 **354.598812** to 354.598818, inclusive, have the meanings ascribed to them in those
5 sections.

6 **Sec. 88.** NRS 354.598814 is hereby amended to read as follows:
7 354.598814 “Fee” means a charge imposed by a city or county upon a public
8 utility for a business license, franchise or right-of-way over streets or other public
9 areas, except ~~‡~~

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

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

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

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

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

21 354.598817 **1.** “Public utility” includes ~~‡~~

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

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

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

30 (c) Sells or resells personal wireless services.

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

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

35 354.598818 “Revenue” does not include:

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

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

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

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

44 354.5989 1. A local government shall not increase any fee for a business
45 license or adopt a fee for a business license issued for revenue or regulation, or
46 both, except as permitted by this section. This prohibition does not apply to fees:

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

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

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

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

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

7 ~~[(e)]~~ (f) Regulated pursuant to NRS 354.59881 to 354.59889, inclusive.

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

10 (a) The fees excluded by subsection 1, for the fiscal year ended on June 30,
11 1991; and

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

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

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

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

31 (b) *Imposed* pursuant to NRS 244.348, 268.0973, 268.821 or 269.182 ~~[(e)]~~
32 ~~regulated~~ ; or

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

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

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

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

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

45 360.825 1. Except as otherwise provided in this section, if on or after July 1,
46 2003, a local government acquires from another entity a public utility that provides
47 electric service, natural gas service, telecommunications service or community
48 antenna television, *cable television or other video* service:

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

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

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

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

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

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

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

28 3. The provisions of this section do not:

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

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

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

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

43 360.830 1. Except as otherwise provided in this section, if on or after July 1,
44 2003, a local government:

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

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

52 the local government shall enter into an interlocal agreement with each affected
53 local government to compensate the affected local government each fiscal year, as

1 nearly as practicable, for the amount of any money from state and local taxes and
2 franchise fees and from payments in lieu of those taxes and franchise fees, and for
3 any compensation from a local government pursuant to this section, the affected
4 local government would be entitled to receive but will not receive because of the
5 acquisition of that public utility or expansion of those facilities as provided in this
6 section.

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

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

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

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

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

20 361.320 1. At the regular session of the Nevada Tax Commission
21 commencing on the first Monday in October of each year, the Nevada Tax
22 Commission shall examine the reports filed pursuant to NRS 361.318 and establish
23 the valuation for assessment purposes of any property of an interstate or intercounty
24 nature used directly in the operation of all interstate or intercounty railroad,
25 sleeping car, private car, natural gas transmission and distribution, water, telephone,
26 scheduled and unscheduled air transport, electric light and power companies, and
27 the property of all railway express companies operating on any common or contract
28 carrier in this State. This valuation must not include the value of vehicles as defined
29 in NRS 371.020.

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

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

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

51 5. The Nevada Tax Commission shall adopt formulas and incorporate them in
52 its records, providing the method or methods pursued in fixing and establishing the
53 taxable value of all property assessed by it. The formulas must be adopted and may

1 be changed from time to time upon its own motion or when made necessary by
2 judicial decisions, but the formulas must in any event show all the elements of
3 value considered by the Nevada Tax Commission in arriving at and fixing the value
4 for any class of property assessed by it. These formulas must take into account, as
5 indicators of value, the company's income and the cost of its assets, but the taxable
6 value may not exceed the cost of replacement as appropriately depreciated.

7 6. If two or more persons perform separate functions that collectively are
8 needed to deliver electric service to the final customer and the property used in
9 performing the functions would be centrally assessed if owned by one person, the
10 Nevada Tax Commission shall establish its valuation and apportion the valuation
11 among the several counties in the same manner as the valuation of other centrally
12 assessed property. The Nevada Tax Commission shall determine the proportion of
13 the tax levied upon the property by each county according to the valuation of the
14 contribution of each person to the aggregate valuation of the property. This
15 subsection does not apply to a qualifying facility, as defined in 18 C.F.R. §
16 292.101, which was constructed before July 1, 1997, or to an exempt wholesale
17 generator, as defined in 15 U.S.C. § 79z-5a.

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

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

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

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

47 11. As used in this section:

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

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

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

2 372.728 In administering the provisions of this chapter, the Department shall
3 construe the term “retailer maintaining a place of business in this State” to include:

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

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

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

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

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

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

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

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

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

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

40 372.734 In administering the provisions of this chapter, the Department shall
41 not consider the activities of persons that are directly related to the process of
42 transmitting radio, television, cable television, *video* or data signals, including the
43 transmission of news or information by *video or* data signal, the transmission of
44 signals from one broadcaster to another and from a broadcaster to a member of the
45 public and including the production and airing of any form of speech or broadcast
46 by radio or television, whether or not compensation is provided to the broadcaster
47 in connection therewith, to be transactions that are taxable pursuant to the
48 provisions of this chapter.

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

50 374.728 In administering the provisions of this chapter, the Department shall
51 construe the term “retailer maintaining a place of business in a county” to include:

52 1. A retailer maintaining, occupying or using, permanently or temporarily,
53 directly or indirectly, or through a subsidiary or agent, by whatever name called, an

1 office, place of distribution, sales or sample room or place, warehouse or place of
2 storage, or any other place of business, in the county.

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

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

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

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

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

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

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

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

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

37 374.739 In administering the provisions of this chapter, the Department shall
38 not consider the activities of persons that are directly related to the process of
39 transmitting radio, television, cable television, *video* or data signals, including the
40 transmission of news or information by *video or* data signal, the transmission of
41 signals from one broadcaster to another and from a broadcaster to a member of the
42 public and including the production and airing of any form of speech or broadcast
43 by radio or television, whether or not compensation is provided to the broadcaster
44 in connection therewith, to be transactions that are taxable pursuant to the
45 provisions of this chapter.

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

47 425.393 1. The Chief may request the following information to carry out the
48 provisions of this chapter:

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

51 (1) The State Registrar of Vital Statistics;

52 (2) Agencies responsible for maintaining records relating to state and local
53 taxes and revenue;

1 (3) Agencies responsible for keeping records concerning real property and
2 personal property for which a title must be obtained;

3 (4) All boards, commissions and agencies that issue occupational or
4 professional licenses, certificates or permits;

5 (5) The Secretary of State;

6 (6) The Employment Security Division of the Department of Employment,
7 Training and Rehabilitation;

8 (7) Agencies that administer public assistance;

9 (8) The Department of Motor Vehicles;

10 (9) The Department of Public Safety;

11 (10) The Department of Corrections; and

12 (11) Law enforcement agencies and any other agencies that maintain
13 records of criminal history.

14 (b) The names and addresses of:

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

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

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

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

23 2. If a person or other entity fails to supply the information requested pursuant
24 to subsection 1, the Administrator may issue a subpoena to compel the person or
25 entity to provide that information. A person or entity who fails to comply with a
26 request made pursuant to subsection 1 is subject to a civil penalty not to exceed
27 \$500 for each failure to comply.

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

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

31 432.310 "Broadcaster" means a radio broadcasting station, cable operator *or*
32 *other video service provider* or television broadcasting station primarily engaged
33 in, and deriving income from, the business of facilitating speech via over-the-air
34 communications, both as to pure speech and commercial speech.

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

36 455.210 The provisions of NRS 455.220 and 455.230 are not applicable to:

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

41 (a) Electrical systems;

42 (b) Communication systems; or

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

45 2. An employee of a ~~feable antenna television system~~ *video service provider*
46 *operating pursuant to chapter 711 of NRS* or a business which provides
47 communication services, while the employee, acting within the scope of his
48 employment, is making service attachments to the structure supporting an overhead
49 line carrying high voltage, if authorized to do so by the public utility operating the
50 overhead line.

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

52 597.816 The provisions of NRS 597.814 do not prohibit the use of a device
53 for automatic dialing and announcing by any person exclusively on behalf of:

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

4 2. A nonprofit organization.

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

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

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

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

17 (a) Information relating to public safety;

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

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

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

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

24 598.137 1. A person shall not, in connection with the sale or lease or
25 solicitation for sale or lease of any goods, property or service, represent that another
26 person has a chance to receive a prize or item of value without clearly disclosing on
27 whose behalf the contest or promotion is conducted and all conditions that a
28 participant must meet.

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

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

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

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

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

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

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

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

43 5. Advertisements with representations made pursuant to subsection 1 that are
44 broadcast by radio or television may be broadcast without the required disclosures,
45 conditions and restrictions but must clearly broadcast the availability of such
46 disclosures, conditions and restrictions to an interested person, without any charge,
47 upon request.

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

1 7. For the purposes of this section, the actual retail value of an item or prize is
2 the price at which substantial sales of the item were made in an area within the last
3 90 days, or if no substantial sales were made, the cost of the item or prize to the
4 person on whose behalf the contest or promotion is conducted.

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

6 598A.040 The provisions of this chapter do not apply to:

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

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

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

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

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

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

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

22 5. Restrictive covenants:

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

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

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

31 599B.010 As used in this chapter, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

5 9. "Salesman" means any person:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (3) Services of a recovery service.

6 11. "Seller" does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50 (2) Includes the business address of the person;

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

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

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

1 (l) A person soliciting without the intent to complete and who does not
2 complete, the sales transaction by telephone but completes the sales transaction at a
3 later face-to-face meeting between the solicitor and the consumer, if the person,
4 after soliciting a sale by telephone, does not cause another person to collect the
5 payment from or deliver any goods or services purchased to the consumer.

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

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

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

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

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

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

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

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

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

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

34 (1) The person is registered with or temporarily licensed by the
35 Commission to conduct that activity pursuant to the Commodity Exchange Act, ~~15~~
36 7 U.S.C. §§ 1 et seq. ; ~~D~~ and

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

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

41 (1) Making the solicitation; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 **Sec. 105.3.** *As used in sections 105.3 to 106.2, inclusive, of this act, unless*
30 *the context otherwise requires, the words and terms defined in sections 105.4 to*
31 *105.7, inclusive, of this act have the meanings ascribed to them in those sections.*

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

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

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

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

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

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

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

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

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

45 *(d) An electronic bulletin board;*

46 *(e) A list server;*

47 *(f) A newsgroup; or*

48 *(g) A chat room.*

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

52 **Sec. 105.8.** *For the purposes of sections 105.3 to 106.2, inclusive, of this*
53 *act, a person has “reasonable cause to believe” if, in light of all the surrounding*

1 *facts and circumstances which are known or which reasonably should be known*
2 *to the person at the time, a reasonable person would believe, under those facts*
3 *and circumstances, that an act, transaction, event, situation or condition exists, is*
4 *occurring or has occurred.*

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

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

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

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

17 *(d) Allow the subscriber to monitor a child's use of the Internet service by*
18 *providing a report to the subscriber of the specific websites or domains that the*
19 *child has visited or has attempted to visit but could not access because the*
20 *websites or domains were blocked or restricted by the subscriber.*

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

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

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

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

34 **Sec. 106.2. 1.** *Any violation of sections 105.3 to 106.2, inclusive, of this*
35 *act constitutes a deceptive trade practice subject to NRS 598.0903 to 598.0999,*
36 *inclusive.*

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

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

41 *603.010 As used in ~~[this chapter]~~ NRS 603.010 to 603.090, inclusive, unless*
42 *the context otherwise requires, the words and terms defined in NRS 603.020 and*
43 *603.030, have the meanings ascribed to them in those sections.*

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

45 *603.090 The civil remedies provided in ~~[this chapter]~~ NRS 603.010 to*
46 *603.090, inclusive:*

47 **1.** *Do not preclude the prosecution of a defendant under the penal laws of this*
48 *State.*

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

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

2 618.880 1. The Division shall adopt regulations establishing standards and
3 procedures for the operation of cranes, including, without limitation, regulations
4 requiring the:

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

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

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

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

12 2. Except as otherwise provided in subsection 3:

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

15 (1) Tower cranes; or

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

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

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

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

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

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

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

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

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

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

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

40 (1) A bucket truck or lift;

41 (2) An aerial platform;

42 (3) A platform lift; or

43 (4) A scissors lift.

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

47 (a) Electric service;

48 (b) Gas service;

49 (c) Water or sewer service;

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

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

1 **Sec. 107.** NRS 624.218 is hereby amended to read as follows:
2 624.218 1. The Board shall adopt by regulation a classification of licensing
3 for persons who construct or improve ~~{community antenna television systems.}~~
4 *video service networks*. Except as otherwise provided in subsection 2, a person who
5 engages in such construction, alteration or improvement must be licensed in this
6 classification and may not be required to be licensed in any other classification.

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

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

12 **Sec. 108.** 1. NRS 318.1193, 318.1194, 354.598811, 711.185, 711.190,
13 711.200, 711.210, 711.230 and 711.250 are hereby repealed.

14 2. Section 2.290 of the Charter of the City of Caliente, being chapter 31,
15 Statutes of Nevada 1971, at page 63, is hereby repealed.

16 3. Section 2.320 of the Charter of the City of Carlin, being chapter 344,
17 Statutes of Nevada 1971, at page 612, is hereby repealed.

18 4. Section 2.280 of the Charter of Carson City, being chapter 213, Statutes of
19 Nevada 1969, at page 300, is hereby repealed.

20 5. Section 2.350 of the Charter of the City of Elko, being chapter 276,
21 Statutes of Nevada 1971, as amended by chapter 51, Statutes of Nevada 2001, at
22 page 460, is hereby repealed.

23 6. Section 2.300 of the Charter of the City of Henderson, being chapter 266,
24 Statutes of Nevada 1971, at page 410, is hereby repealed.

25 7. Section 2.330 of the Charter of the City of Las Vegas, being chapter 517,
26 Statutes of Nevada 1983, at page 1405, is hereby repealed.

27 8. Section 2.300 of the Charter of the City of North Las Vegas, being chapter
28 573, Statutes of Nevada 1971, at page 1219, is hereby repealed.

29 9. Section 2.320 of the Charter of the City of Wells, being chapter 275,
30 Statutes of Nevada 1971, at page 466, is hereby repealed.

31 10. Section 2.300 of the Charter of the City of Yerington, being chapter 465,
32 Statutes of Nevada 1971, as amended by chapter 184, Statutes of Nevada 1985, at
33 page 645, is hereby repealed.

34 **Sec. 109.** On or before October 1, 2007, the Secretary of State shall adopt
35 any regulations that are necessary to carry out the provisions of this act.

36 **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.