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Short Title: Video Service Competition Act.

(Public)

Sponsors:

Referred to:

May 18, 2006

A BILL TO BE ENTITLED

AN ACT TO PROMOTE CONSUMER CHOICE IN VIDEO SERVICE PROVIDERS
AND TO ESTABLISH UNIFORM TAXES FOR VIDEO PROGRAMMING
SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes is amended by adding a
new Article to read:

"Article 42.

"State Franchise for Cable Television Service.

"§ 66-350. Definitions.

The following definitions apply in this Article:

- (1) Cable service. – Defined in G.S. 105-164.3.
- (2) Cable system. – Defined in 47 U.S.C. § 522.
- (3) Channel. – A portion of the electromagnetic frequency spectrum that is used in a cable system and is capable of delivering a television channel.
- (4) Existing agreement. – A local franchise agreement that was awarded under G.S. 153A-137 or G.S. 160A-319 and meets either of the following:
 - a. Is in effect on January 1, 2007.
 - b. Expired before January 1, 2007, and the cable service provider under the agreement provides cable service to subscribers in the franchise area on January 1, 2007.
- (5) Pass a household. – Make service available to a household, regardless of whether the household subscribes to the service.
- (6) PEG channel. – A public, educational, or governmental access channel provided to a county or city.

1 (7) Secretary. – The Secretary of State.

2 (8) Video programming. – Defined in G.S. 105-164.3.

3 **"§ 66-351. State franchising authority.**

4 (a) Authority. – The Secretary of State is designated the exclusive franchising
5 authority in this State for cable service provided over a cable system. This designation
6 replaces the authorization to counties and cities in former G.S. 153A-137 and
7 G.S. 160A-319 to award a franchise for cable service. This designation is effective
8 January 1, 2007. After this date, a county or city may not award or renew a franchise for
9 cable service.

10 (b) Award and Scope. – The Secretary is considered to have awarded a franchise
11 to a person who files a notice of franchise under G.S. 66-352. A franchise for cable
12 service authorizes the holder of the franchise to construct and operate a cable system
13 over public rights-of-way within the area to be served. Chapter 160A of the General
14 Statutes governs the regulation of public rights-of-way by a city.

15 **"§ 66-352. Award of franchise and commencement of service.**

16 (a) Notice of Franchise. – A person who intends to provide cable service over a
17 cable system in an area must file a notice of franchise with the Secretary before
18 providing the service. A person who files a notice of franchise must pay a fee in the
19 amount set in G.S. 57C-1-22 for filing articles of organization.

20 A notice of franchise is effective when it is filed with the Secretary. The notice of
21 franchise must include all of the following:

22 (1) The applicant's name, principal place of business, mailing address,
23 physical address, telephone number, and e-mail address.

24 (2) A description and map of the area to be served.

25 (3) A list of each county and city in which the described service area is
26 located, in whole or in part.

27 (4) A schedule indicating when service is expected to be offered in the
28 service area.

29 (b) Commencement of Service. – A person who files a notice of franchise under
30 subsection (a) of this section must begin providing cable service in the service area
31 described in the notice within 120 days after the notice is filed. If cable service does not
32 begin within this period, the notice of franchise terminates 130 days after it was filed. If
33 cable service begins within this period, the holder of the State-issued franchise must file
34 a notice of service with the Secretary within 10 days after the cable service begins.
35 Cable service begins when it passes one or more households in the described service
36 area. This subsection does not apply to a cable service provider who terminates an
37 existing agreement whose franchise area includes all of the service area described in a
38 notice of franchise filed by the provider under subsection (a) of this section.

39 A notice of service for a service area must include all of the following:

40 (1) The effective date of a notice of franchise for that area.

41 (2) A description and map of the service area.

42 (3) A statement that cable service has begun in the service area.

43 (c) Extension. – A person who intends to provide cable service over a cable
44 system in an area that is contiguous with but outside the service area described in a

1 notice of franchise on file with the Secretary must file a notice of franchise under
2 subsection (a) of this section that includes the proposed area. The initial service
3 requirements in subsection (b) of this section apply to the proposed area. If the map of
4 the area to be served includes any area that is part of the service area of another
5 State-issued franchise, the termination of a notice of franchise for the proposed area for
6 failure to begin service within the required time does not affect the status of the other
7 State-issued franchise.

8 (d) **Withdrawal.** – A person may withdraw a notice of franchise by filing a notice
9 of withdrawal with the Secretary. The notice of withdrawal must be filed at least 90
10 days before the service is withdrawn.

11 **"§ 66-353. Annual service report.**

12 A holder of a State-issued franchise must file an annual service report with the
13 Secretary. The report must be filed on or before July 31 of each year. The report must
14 be accompanied by a fee in the amount set in G.S. 57C-1-22 for filing an annual report.
15 The report must include all of the following:

- 16 (1) The effective date of a notice of franchise for that area.
- 17 (2) A description and map of the service area.
- 18 (3) The approximate number of households in the service area.
- 19 (4) A description and a map of the households passed in the service area
20 as of July 1.
- 21 (5) The percentage of households passed in the service area as of July 1.
- 22 (6) The percentage of households passed in the service area as of July 1 of
23 any preceding year for which a report was required under this section.
- 24 (7) A report indicating the extent to which the holder has met the customer
25 service requirements under G.S. 66-356(b).
- 26 (8) A schedule indicating when service is expected to be offered in the
27 service area, to the extent the schedule differs from one included in the
28 notice of franchise or in a report previously submitted under this
29 section, and an explanation of the reason for the new schedule.

30 **"§ 66-354. General filing and report requirements.**

31 (a) **General.** – A document filed with the Secretary under this Article must be
32 signed by an officer or general partner of the person submitting the document. Within
33 five days after a person files a document with the Secretary under this Article, the
34 person must send a copy of the document to any county or city included in the service
35 area described in the document and to the registered agent of any cable service provider
36 that is providing cable service under an existing agreement in the service area described
37 in the document.

38 The provisions of Article 2 of Chapter 55D of the General Statutes apply to the
39 submission of a document under this Article. A document filed under this Article is a
40 public record as defined in G.S. 132-1. The Secretary must post a document filed under
41 this Article on its Internet Web site or indicate on its Internet Web site that the
42 document has been filed and is available for inspection.

43 A successor in interest to a person who has filed a notice of franchise is not required
44 to file another notice of franchise. When a change in ownership occurs, the owner must

1 file a notice of change in ownership with the Secretary within 14 days after the change
2 becomes effective.

3 (b) Forfeiture. – A person who offers cable service over a cable system without
4 filing a notice of franchise or a notice of service as required by this Article is subject to
5 forfeiture of the revenue received during the period of noncompliance from subscribers
6 to the cable service in the area of noncompliance. Forfeiture does not apply to revenue
7 received from cable service provided over a cable system in an area that is adjacent to a
8 service area described in a notice of franchise and notice of service filed by that cable
9 service provider under G.S. 66-352 if the provider obtains a State-issued franchise and
10 files a notice of service that includes this area within 20 days after a civil action for
11 forfeiture is filed. A forfeiture does not affect the liability of the cable service provider
12 for sales tax due under G.S. 105-164.4 on cable service.

13 A cable service provider whose area includes the area in which a person is providing
14 cable service without complying with the notice of franchise and notice of service
15 requirements may bring a civil action for forfeiture. The amount required to be forfeited
16 in the action must be remitted to the Civil Penalty and Forfeiture Fund established in
17 G.S. 115C-457.2.

18 **"§ 66-355. Effect on existing local franchise agreement.**

19 (a) Existing Agreement. – This Article does not affect an existing agreement
20 except as follows:

21 (1) Effective January 1, 2007, gross revenue used to calculate the payment
22 of the franchise tax imposed by G.S. 153A-154 or G.S. 160A-214 does
23 not include gross receipts from cable service subject to sales tax under
24 G.S. 105-164.4. This exclusion does not otherwise affect the
25 calculation of gross revenue and the payment to counties and cities of
26 franchise tax revenue under existing agreements that have not been
27 terminated under subsection (b) of this section.

28 (2) A cable service provider under an existing agreement that is in effect
29 on January 1, 2007, may terminate the agreement in accordance with
30 subsection (b) of this section in any of the following circumstances:

31 a. A notice of service filed under G.S. 66-352 indicates that one or
32 more households in the franchise area of the existing agreement
33 are passed by both the cable service provider under the existing
34 agreement and the holder of a State-issued franchise.

35 b. As of January 1, 2007, a county or city has an existing
36 agreement with more than one cable service provider for
37 substantially the same franchise area and at least twenty-five
38 percent (25%) of the households in the franchise areas of the
39 existing agreements are passed by more than one cable service
40 provider.

41 c. A person provides wireline competition in the franchise area of
42 the existing agreement by offering video programming over
43 wireline facilities to single family households by a method that
44 does not require a franchise under this Article. A notice of

1 termination filed on the basis of wireline competition must
2 include evidence of the competition in providing video
3 programming service, such as an advertisement announcing the
4 availability of the service, the acceptance of an order for the
5 service, and information on the provider's Web site about the
6 availability of the service. A county or city is allowed 60 days
7 to review the evidence. The effective date of the termination is
8 tolled during this review period. At the end of this period, the
9 termination proceeds unless the county or city has obtained an
10 order enjoining the termination based on the cable service
11 provider's failure to establish the existence of wireline
12 competition in its franchise area.

13 (3) A cable service provider under an existing agreement that
14 expired before January 1, 2007, may obtain a State-issued
15 franchise. The provider does not have to terminate the
16 agreement in accordance with subsection (b) of this section
17 because the agreement has expired.

18 (b) Termination. – To terminate an existing agreement, a cable service provider
19 must file a notice of termination with the affected county or city and file a notice of
20 franchise with the Secretary. A termination of an existing agreement becomes effective
21 at the end of the month in which the notice of termination is filed with the affected
22 county or city. A termination of an existing agreement ends the obligations under the
23 agreement and under any local cable regulatory ordinance that specifically authorizes
24 the agreement as of the effective date of the termination but does not affect the rights or
25 liabilities of the county or city, a taxpayer, or another person arising under the existing
26 agreement or local ordinance before the effective date of the termination.

27 **§ 66-356. Service standards and requirements.**

28 (a) Discrimination Prohibited. – A person who provides cable service over a
29 cable system may not deny access to the service to any group of potential residential
30 subscribers within the filed service area because of the race or income of the residents.
31 A violation of this subsection is an unfair or deceptive act or practice under G.S. 75-1.1.

32 In determining whether a cable service provider has violated this subsection with
33 respect to a group of potential residential subscribers in a service area, the following
34 factors must be considered:

- 35 (1) The length of time since the provider filed the notice of service for the
36 area. If less than a year has elapsed since the notice of service was
37 filed, it is conclusively presumed that a violation has not occurred.
- 38 (2) The cost of providing service to the affected group due to distance
39 from facilities, density, or other factors.
- 40 (3) Technological impediments to providing service to the affected group.
- 41 (4) Inability to obtain access to property required to provide service to the
42 affected group.
- 43 (5) Competitive pressure to respond to service offered by another cable
44 service provider or other provider of video programming.

1 (b) FCC Standards. – A person who provides cable service over a cable system
2 must comply with the customer service requirements in 47 C.F.R. Part 76 and
3 emergency alert requirements established by the Federal Communications Commission.

4 (c) Complaints. – The Consumer Protection Division of the Attorney General's
5 Office is designated as the State agency to receive and respond to customer complaints
6 concerning cable services. Persistent or repeated violations of the federal customer
7 service requirements or the terms and conditions of the cable service provider's
8 agreement with customers are unfair or deceptive acts or practices under G.S. 75-1.1.

9 To facilitate the resolution of customer complaints, the cable service provider must
10 include the following statement on the customer's bill: "If you have a complaint about
11 your cable service, you should first contact customer service at the following telephone
12 number: (insert the cable service provider's customer service telephone number). If the
13 cable service provider does not satisfactorily resolve your complaint, contact the
14 Consumer Protection Division of the Attorney General's Office of the State of North
15 Carolina (insert information on how to contact the Consumer Protection Division of the
16 Attorney General's Office).

17 (d) No Build-Out. – No build-out requirements apply to a person who provides
18 cable service under a State-issued franchise.

19 **"§ 66-357. Availability and use of PEG channels.**

20 (a) Application. – This section applies to a person who provides cable service
21 under a State-issued franchise. It does not apply to a person who provides cable service
22 under an existing agreement.

23 (b) Local Request. – A county or city must make a written request to a cable
24 service provider for PEG channel capacity. The request must include a statement
25 describing the county's or city's plan to operate and program each channel requested.
26 The cable service provider must provide the requested PEG channel capacity within the
27 later of the following:

28 (1) 120 days after the cable service provider receives the written request.

29 (2) 30 days after any interconnection requested under G.S. 66-358(a)(1) is
30 accomplished.

31 (c) Initial PEG Channels. – A city with a population of at least 50,000 is allowed
32 a minimum of three initial PEG channels plus any channels in excess of this minimum
33 that are activated, as of July 1, 2006, under the terms of an existing franchise agreement
34 whose franchise area includes the city. A city with a population of less than 50,000 is
35 allowed a minimum of two initial PEG channels plus any channels in excess of this
36 minimum that are activated, as of July 1, 2006, under the terms of an existing franchise
37 agreement whose franchise area includes the city. For a city included in the franchise
38 area of an existing agreement, the agreement determines the service tier placement and
39 transmission quality of the initial PEG channels. For a city that is not included in the
40 franchise area of an existing agreement, the initial PEG channels must be on a basic
41 service tier, and the transmission quality of the channels must be equivalent to those of
42 the closest city covered by an existing agreement.

43 A county is allowed a minimum of two initial PEG channels plus any channels in
44 excess of this minimum that are activated, as of July 1, 2006, under the terms of an

1 existing franchise agreement whose franchise area includes the county. For a county
2 included in the franchise area of an existing agreement, the agreement determines the
3 service tier placement and transmission quality of the initial PEG channels. For a county
4 that is not included in the franchise area of an existing agreement, the initial PEG
5 channels must be on a basic service tier and the transmission quality of the channels
6 must be equivalent to those of any city with PEG channels in the county.

7 The cable service provider must maintain the same channel designation for a PEG
8 channel unless the service area of the State-issued franchise includes PEG channels that
9 are operated by different counties or cities and those PEG channels have the same
10 channel designation. Each county and city whose PEG channels are served by the same
11 cable system headend must cooperate with each other and with the cable system
12 provider in sharing the capacity needed to provide the PEG channels.

13 (d) Additional PEG Channels. – A county or city that does not have seven PEG
14 channels, including the initial PEG channels, is eligible for an additional PEG channel if
15 it meets the programming requirements in this subsection. A county or city that has
16 seven PEG channels is not eligible for an additional channel.

17 A county or city that meets the programming requirements in this subsection may
18 make a written request under subsection (b) of this section for an additional channel.
19 The additional channel may be provided on any service tier. The transmission quality of
20 the additional channel must be at least equivalent to the transmission quality of the other
21 channels provided.

22 The PEG channels operated by a county or city must meet the following
23 programming requirements for at least 120 continuous days in order for the county or
24 city to obtain an additional channel:

25 (1) All of the PEG channels must have scheduled programming for at least
26 eight hours a day.

27 (2) The programming content of each of the PEG channels must not repeat
28 more than fifteen percent (15%) of the programming content on any of
29 the other PEG channels.

30 (3) No more than fifteen percent (15%) of the programming content on
31 any of the PEG channels may be character-generated programming.

32 (e) Use of Channels. – If a county or city no longer provides any programming
33 for transmission over a PEG channel it has activated, the channel may be reprogrammed
34 at the cable service provider's discretion. A cable service provider must give at least a
35 60-day notice to a county or city before it reprograms a PEG channel that is not used.
36 The cable service provider must restore a previously lost PEG channel within 120 days
37 of the date a county or city certifies to the provider a schedule that demonstrates the
38 channel will be used.

39 (f) Operation of Channels. – A cable service provider is responsible only for the
40 transmission of a PEG channel. The county or city to which the PEG channel is
41 provided is responsible for the operation and content of the channel. A county or city
42 that provides content to a cable service provider for transmission on a PEG channel is
43 considered to have authorized the provider to transmit the content throughout the

1 provider's service area, regardless of whether part of the service area is outside the
2 boundaries of the county or city.

3 All programming on a PEG channel must be noncommercial. A cable service
4 provider may not brand content on a PEG channel with its logo, name, or other
5 identifying marks. A cable service provider is not required to transmit content on a PEG
6 channel that is branded with the logo, name, or other identifying marks of another cable
7 service provider.

8 (g) Compliance. – A county or city that has not received PEG channel capacity as
9 required by this section may bring an action to compel a cable service provider to
10 comply with this section.

11 **"§ 66-358. Transmission of PEG channels.**

12 (a) Service. – A cable service provider operating under a State-issued franchise
13 must transmit a PEG channel by one of the following methods:

14 (1) Interconnection with another cable system operated in its service area.
15 A cable service provider operating in the same service area as a
16 provider under a State-issued franchise must interconnect its cable
17 system on reasonable and competitively neutral terms with the other
18 provider's cable system within 120 days after it receives a written
19 request for interconnection and may not refuse to interconnect on these
20 terms. The terms include compensation for costs incurred in
21 interconnecting. Interconnection may be accomplished by direct cable,
22 microwave link, satellite, or another method of connection.

23 (2) Transmission of the signal from each PEG channel programmer's
24 origination site, if the origination site is in the provider's service area.

25 (b) Signal. – All PEG channel programming provided to a cable service provider
26 for transmission must meet the federal National Television System Committee standards
27 or the Advanced Television Systems Committee Standards. If a PEG channel
28 programmer complies with these standards and the cable service provider cannot
29 transmit the programming without altering the transmission signal, then the cable
30 service provider must do one of the following:

31 (1) Alter the transmission signal to make it compatible with the
32 technology or protocol the cable service provider uses to deliver its
33 cable service.

34 (2) Provide to the county or city the equipment needed to alter the
35 transmission signal to make it compatible with the technology or
36 protocol the cable service provider uses to deliver its cable service.

37 **"§ 66-359. PEG channel grants.**

38 (a) PEG Channel Fund. – The PEG Channel Fund is created as an
39 interest-bearing special revenue fund. It consists of revenue allocated to it under
40 G.S. 105-164.44I(b) and any other revenues appropriated to it. The e-NC Authority,
41 created under G.S. 143B-437.46, administers the Fund.

42 (b) Grants. – A county or city may apply to the e-NC Authority for a grant from
43 the PEG Channel Fund. In awarding grants from the Fund, the e-NC Authority must, to

1 the extent possible, select applicants from all parts of the State based upon need. Grants
2 from the Fund are subject to the following limitations:

3 (1) The grant may not exceed twenty-five thousand dollars (\$25,000).

4 (2) The applicant must match the grant on a dollar-for-dollar basis.

5 (3) The grant may be used only for capital expenditures necessary to
6 provide PEG channel programming.

7 (4) An applicant may receive no more than one grant per fiscal year.

8 (c) Reports. – The e-NC Authority must publish an annual report on grants
9 awarded under this section. The report must list each grant recipient, the amount of the
10 grant, and the purpose of the grant.

11 **"§ 66-360. Service to public building.**

12 At the written request of a county or city, a cable service provider operating under a
13 State-issued franchise must provide cable service without charge to a public building
14 located within 125 feet of the provider's cable system. The required service is the basic,
15 or lowest-priced, service the provider offers to customers. The terms and conditions that
16 apply to service provided to a residential retail customer apply to the service provided to
17 the public building. Only one service outlet is required for a building. The cable service
18 provider is not required to provide inside wiring and is not required to provide service
19 that conflicts with restrictions that apply in a program licensing agreement or another
20 contract. A public building is a building used as a public school, a charter school, a
21 county or city library, or a function of the county or city."

22 **SECTION 2.** G.S. 105-164.3 is amended by adding a new subdivision to
23 read:

24 **"§ 105-164.3. Definitions.**

25 The following definitions apply in this Article:

26 ...

27 (50c) Video programming. – Programming provided by, or generally
28 considered comparable to programming provided by, a television
29 broadcast station, regardless of the method of delivery."

30 **SECTION 3.** G.S. 105-164.4(a)(6) reads as rewritten:

31 "(6) The combined general rate applies to the gross receipts derived from
32 providing ~~any of the following broadcast services~~ video programming
33 to a subscriber in this State. A cable service provider, a direct-to-home
34 satellite service provider, and any other person engaged in the business
35 of providing ~~any of these services~~ video programming is considered a
36 retailer under this ~~Article~~:Article.

37 a. ~~Direct to home satellite service.~~

38 b. ~~Cable service."~~

39 **SECTION 4.** G.S. 105-164.4C(d) is recodified as G.S. 105-164.4D with the
40 catch line "Bundled services."

41 **SECTION 5.** G.S. 105-164.4D, as recodified by Section 4 of this act, reads
42 as rewritten:

43 **"§ 105-164.4D. Bundled services.**

1 ~~Bundled Services.~~—When a taxable telecommunications service is bundled with a
2 service that is not taxable, the tax applies to the gross receipts from the taxable service
3 in the bundle as follows:

- 4 (1) If the service provider offers all the services in the bundle on an
5 unbundled basis, tax is due on the unbundled price of the taxable
6 service, less the discount resulting from the bundling. The discount for
7 a service as the result of bundling is the proportionate price decrease of
8 the service, determined on the basis of the total unbundled price of all
9 the services in the bundle compared to the bundled price of the
10 services.
- 11 (2) If the service provider does not offer one or more of the services in the
12 bundle on an unbundled basis, tax is due on the taxable service based
13 on a reasonable allocation of revenue to that service. If the service
14 provider maintains an account for revenue from a taxable service, the
15 service provider's allocation of revenue to that service for the purpose
16 of determining the tax due on the service must reflect its accounting
17 allocation of revenue to that service."

18 **SECTION 6.** The catch line to G.S. 105-164.12B reads as rewritten:

19 "**§ 105-164.12B. Bundled transactions. Tangible personal property bundled with**
20 **service contract.**"

21 **SECTION 7.** G.S. 105-164.44F(a) reads as rewritten:

22 "(a) Amount. – The Secretary must distribute ~~to the cities~~ part of the taxes
23 imposed by G.S. 105-164.4(a)(4c) on telecommunications service. The Secretary must
24 make the distribution within 75 days after the end of each calendar quarter. The amount
25 the Secretary must distribute is ~~eighteen and three one hundredths percent (18.03%)~~ the
26 following percentages of the net proceeds of the taxes collected during the ~~quarter,~~
27 quarter:

- 28 (1) Eighteen and three one-hundredths percent (18.03%), minus two
29 million six hundred twenty thousand nine hundred forty-eight dollars
30 ~~(\$2,620,948).~~(\$2,620,948), must be distributed to cities in accordance
31 with this section. ~~This~~ The deduction is one-fourth of the annual
32 amount by which the distribution to cities of the gross receipts
33 franchise tax on telephone companies, imposed by former G.S. 105-20,
34 was required to be reduced beginning in fiscal year 1995-96 as a result
35 of the "freeze deduction." ~~The Secretary must distribute the specified~~
36 ~~percentage of the proceeds, less the "freeze deduction" among the~~
37 ~~cities in accordance with this section.~~
- 38 (2) Seven and twenty-three one-hundredths percent (7.23%) must be
39 distributed to counties and cities as provided in G.S. 105-164.44I."

40 **SECTION 8.** Article 5 of Chapter 105 of the General Statutes is amended by
41 adding a new section to read:

42 "**§ 105-164.44I. Distribution of part of sales tax on video programming service and**
43 **telecommunications service to counties and cities.**"

1 (a) Distribution. – The Secretary must distribute to the counties and cities part of
2 the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and
3 G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the
4 distribution within 75 days after the end of each calendar quarter. The amount the
5 Secretary must distribute is the sum of the revenue listed in this subsection. The
6 Secretary must distribute two million dollars (\$2,000,000) of this amount in accordance
7 with subsection (b) of this section and the remainder in accordance with subsections (c)
8 and (d) of this section. The revenue to be distributed under this section consists of the
9 following:

10 (1) The amount specified in G.S. 105-164.44F(a)(2).

11 (2) Twenty-two and sixty-one one-hundredths percent (22.61%) of the net
12 proceeds of the taxes collected during the quarter on video
13 programming, other than on direct-to-home satellite service.

14 (3) Thirty-seven percent (37%) of the net proceeds of the taxes collected
15 during the quarter on direct-to-home satellite service.

16 (b) Supplemental PEG Support. – The Secretary must include the applicable
17 amount of supplemental PEG channel support in each quarterly distribution to a county
18 or city. The amount to include is one-fourth of twenty-five thousand dollars (\$25,000)
19 for each qualifying PEG channel operated by the county or city. The amount of money
20 distributed under this subsection may not exceed two million dollars (\$2,000,000) in a
21 fiscal year. If the amount to be distributed for qualifying PEG channels in a fiscal year
22 would otherwise exceed this maximum amount, the Secretary must proportionately
23 reduce the applicable amount distributable for each PEG channel. If the amount to be
24 distributed for qualifying PEG channels in a fiscal year is less than two million dollars
25 (\$2,000,000), the Secretary must credit the excess amount to the PEG Channel Fund
26 established in G.S. 66-359.

27 A county or city must certify to the Secretary by July 15 of each year the number of
28 qualifying PEG channels it operates. A qualifying PEG channel is one that meets the
29 programming requirements under G.S. 66-357(d). A county or city may not receive
30 PEG channel support under this subsection for more than three qualifying PEG
31 channels.

32 The amount included under this subsection in a distribution to a county or city is
33 intended to supplement the PEG channel support available in the amount distributed
34 under this section. The money distributed to a county or city under this subsection must
35 be used by it for the operation and support of PEG channels. For purposes of this
36 subsection, the term "PEG channel" has the same meaning as in G.S. 66-350.

37 (c) 2006-2007 Fiscal Year Distribution. – The share of a county or city is its
38 proportionate share of the amount to be distributed to all counties and cities under this
39 subsection. The proportionate share of a county or city is the base amount for the county
40 or city compared to the base amount for all other counties and cities. The base amount
41 of a county or city that did not impose a cable franchise tax under G.S. 153A-154 or
42 G.S. 160A-214 before July 1, 2006, is two dollars (\$2.00) times the most recent annual
43 population estimate for that county or city. The base amount of a county or city that
44 imposed a cable franchise tax under either G.S. 153A-154 or G.S. 160A-214 before July

1, 2006, is the amount of cable franchise tax and subscriber fee revenue the county or city certifies to the Secretary that it imposed during the first six months of the 2006-2007 fiscal year. A county or city must make this certification by March 15, 2007. The certification must specify the amount of revenue that is derived from the cable franchise tax and the amount that is derived from the subscriber fee.

(d) Subsequent Distributions. – For subsequent fiscal years, the Secretary must multiply the amount of a county's or city's share under this section for the preceding fiscal year by the percentage change in its population for that fiscal year and add the result to the county's or city's share for the preceding fiscal year to obtain the county's or city's adjusted amount. Each county's or city's proportionate share for that year is its adjusted amount compared to the sum of the adjusted amounts for all counties and cities.

(e) Use of Proceeds. – A county or city that imposed subscriber fees during the first six months of the 2006-2007 fiscal year must use a portion of the funds distributed to it under subsections (c) and (d) of this section for the operation and support of PEG channels. The amount of funds that must be used for PEG channel operation and support is two times the amount of subscriber fee revenue the county or city certified to the Secretary that it imposed during the first six months of the 2006-2007 fiscal year. A county or city that used part of its franchise tax revenue in fiscal year 2005-2006 for the operation and support of PEG channels or a publicly owned and operated television station must use the funds distributed to it under subsections (c) and (d) of this section to continue the same level of support for the PEG channels and public stations. The remainder of the distribution may be used for any public purpose.

(f) Late Information. – A county or city that does not submit information that the Secretary needs to make a distribution by the date the information is due is excluded from the distribution. If the county or city later submits the required information, the Secretary must include the county or city in the distribution for the quarter that begins after the date the information is received.

(g) Population Determination. – In making population determinations under this section, the Secretary must use the most recent annual population estimates certified to the Secretary by the State Budget Officer. For purposes of the distributions made under this section, the population of a county is the population of its unincorporated areas plus the population of an ineligible city in the county, as determined under this section.

(h) City Changes. – The following changes apply when a city alters its corporate structure or incorporates:

- (1) If a city dissolves and is no longer incorporated, the proportional shares of the remaining counties and cities must be recalculated to adjust for the dissolution of that city.
- (2) If two or more cities merge or otherwise consolidate, their proportional shares are combined.
- (3) If a city divides into two or more cities, the proportional share of the city that divides is allocated among the new cities on a per capita basis.
- (4) If a city incorporates after January 1, 2007, and the incorporation is not addressed by subdivisions (2) or (3) of this subsection, the share of the

1 county in which the new city is located is allocated between the county
 2 and the new city on a per capita basis.

3 (i) Ineligible Cities. – An ineligible city is disregarded for all purposes under this
 4 section. A city incorporated on or after January 1, 2000, is not eligible for a distribution
 5 under this section unless it meets both of the following requirements:

6 (1) It is eligible to receive funds under G.S. 136-41.2.

7 (2) A majority of the mileage of its streets is open to the public.

8 (j) Nature. – The General Assembly finds that the revenue distributed under this
 9 section is local revenue, not a State expenditure, for the purpose of Section 5(3) of
 10 Article III of the North Carolina Constitution. Therefore, the Governor may not reduce
 11 or withhold the distribution."

12 **SECTION 9.** G.S. 105-164.21B is repealed.

13 **SECTION 10.** G.S. 153A-137 is repealed.

14 **SECTION 11.** G.S. 153A-154 is repealed.

15 **SECTION 12.** G.S. 160A-211 reads as rewritten:

16 "**§ 160A-211. Privilege license taxes.**

17 (a) Authority. – Except as otherwise provided by law, a city shall have power to
 18 levy privilege license taxes on all trades, occupations, professions, businesses, and
 19 franchises carried on within the city. A city may levy privilege license taxes on the
 20 businesses that were formerly taxed by the State under the following sections of Article
 21 2 of Chapter 105 of the General Statutes only to the extent the sections authorized cities
 22 to tax the businesses before the sections were repealed:

24	G.S. 105-36	Amusements – Manufacturing, selling, leasing, or
25		distributing moving picture films.
26	G.S. 105-36.1	Amusements – Outdoor theatres.
27	G.S. 105-37	Amusements – Moving pictures – Admission.
28	G.S. 105-42	Private detectives and investigators.
29	G.S. 105-45	Collecting agencies.
30	G.S. 105-46	Undertakers and retail dealers in coffins.
31	G.S. 105-50	Pawnbrokers.
32	G.S. 105-51.1	Alarm systems.
33	G.S. 105-53	Peddlers, itinerant merchants, and specialty market
34		operators.
35	G.S. 105-54	Contractors and construction companies.
36	G.S. 105-55	Installing elevators and automatic sprinkler systems.
37	G.S. 105-61	Hotels, motels, tourist courts and tourist homes.
38	G.S. 105-62	Restaurants.
39	G.S. 105-65	Music machines.
40	G.S. 105-65.1	Merchandising dispensers and weighing machines.
41	G.S. 105-66.1	Electronic video games.
42	G.S. 105-74	Pressing clubs, dry cleaning plants, and hat blockers.
43	G.S. 105-77	Tobacco warehouses.
44	G.S. 105-80	Firearms dealers and dealers in other weapons.

1	G.S. 105-85	Laundries.
2	G.S. 105-86	Outdoor advertising.
3	G.S. 105-89	Automobiles, wholesale supply dealers, and service
4		stations.
5	G.S. 105-89.1	Motorcycle dealers.
6	G.S. 105-90	Emigrant and employment agents.
7	G.S. 105-91	Plumbers, heating contractors, and electricians.
8	G.S. 105-97	Manufacturers of ice cream.
9	G.S. 105-98	Branch or chain stores.
10	G.S. 105-99	Wholesale distributors of motor fuels.
11	G.S. 105-102.1	Certain cooperative associations.
12	G.S. 105-102.5	General business license.

13

14 (b) Barbershop and Salon Restriction. – A privilege license tax levied by a city
 15 on a barbershop or a beauty salon may not exceed two dollars and fifty cents (\$2.50) for
 16 each barber, manicurist, cosmetologist, beautician, or other operator employed in the
 17 barbershop or beauty salon.

18 (c) ~~Piped Gas Restriction. Prohibition.~~ – A city may not levy a privilege license
 19 tax on a person who is engaged in the business of supplying piped natural gas and is
 20 subject to tax under Article 5E of Chapter 105 of the General Statutes. impose a license,
 21 franchise, or privilege tax on a person engaged in any of the businesses listed in this
 22 subsection. These businesses are subject to a State tax for which the city receives a
 23 share of the tax revenue.

24 (1) Supplying piped natural gas taxed under Article 5E of Chapter 105 of
 25 the General Statutes.

26 (2) Providing telecommunications service taxed under
 27 G.S. 105-164.4(a)(4c).

28 (3) Providing video programming taxed under G.S. 105-164.4(a)(6).

29 (d) ~~Telecommunications Restriction.~~ – A city may not impose a license,
 30 franchise, or privilege tax on a company taxed under G.S. 105-164.4(a)(4c)."

31 **SECTION 13.** G.S. 160A-214 is repealed.

32 **SECTION 14.** G.S. 160A-296(a) reads as rewritten:

33 "(a) A city shall have general authority and control over all public streets,
 34 sidewalks, alleys, bridges, and other ways of public passage within its corporate limits
 35 except to the extent that authority and control over certain streets and bridges is vested
 36 in the Board of Transportation. General authority and control includes but is not limited
 37 ~~to~~ to all of the following:

38 (1) The duty to keep the public streets, sidewalks, alleys, and bridges in
 39 proper ~~repair;~~ repair.

40 (2) The duty to keep the public streets, sidewalks, alleys, and bridges open
 41 for travel and free from unnecessary ~~obstructions;~~ obstructions.

42 (3) The power to open new streets and alleys, and to widen, extend, pave,
 43 clean, and otherwise improve existing streets, sidewalks, alleys, and

1 bridges, and to acquire the necessary land therefor by dedication and
2 acceptance, purchase, or eminent ~~domain~~;domain.

3 (4) The power to close any street or alley either permanently or
4 temporarily;temporarily.

5 (5) The power to regulate the use of the public streets, sidewalks, alleys,
6 and ~~bridges~~;bridges.

7 (6) The power to regulate, license, and prohibit digging in the streets,
8 sidewalks, or alleys, or placing therein or thereon any pipes, poles,
9 wires, fixtures, or appliances of any kind either on, above, or below the
10 ~~surface~~;surface. To the extent a municipality is authorized under
11 applicable law to impose a fee or charge with respect to activities
12 conducted in its rights-of-way, the fee or charge must apply uniformly
13 and on a competitively neutral and nondiscriminatory basis to all
14 comparable activities by similarly situated users of the rights-of-way.

15 (7) The power to provide for lighting the streets, alleys, and bridges of the
16 ~~city~~;andcity.

17 (8) The power to grant easements in street rights-of-way as permitted by
18 G.S. 160A-273."

19 **SECTION 15.** G.S. 160A-319(a) reads as rewritten:

20 "(a) A city shall have authority to grant upon reasonable terms franchises for ~~the~~
21 ~~operation within the city of a telephone system and any of the enterprises listed in~~
22 ~~G.S. 160A-311 and for the operation of telephone systems. G.S. 160A-311, except a~~
23 ~~cable television system. A franchise granted by a city authorizes the operation of the~~
24 ~~franchised activity within the city.~~ No franchise shall be granted for a period of more
25 than 60 years, except that a franchise for solid waste collection or disposal systems and
26 facilities shall not be granted for a period of more than 30 years ~~and cable television~~
27 ~~franchises shall not be granted for a period of more than 20 years.~~ Except as otherwise
28 provided by law, when a city operates an enterprise, or upon granting a franchise, a city
29 may by ordinance make it unlawful to operate an enterprise without a franchise."

30 **SECTION 16.** To make the distribution required under G.S. 105-164.44I(b),
31 as enacted by this act, for the 2006-2007 fiscal year, a county or city must certify to the
32 Secretary of Revenue by March 15, 2007, the number of qualifying PEG channels it
33 operates.

34 **SECTION 17.** A primary purpose of this act is to promote consumer choice
35 in video service providers. A premise of this goal is that increased competition will lead
36 to improved service. Under competition, a customer who is dissatisfied with service by
37 one cable service provider will have the option of choosing a different service provider.

38 G.S. 66-356, as enacted by this act, designates the Consumer Protection
39 Division of the Attorney General's Office as the agency to receive and respond to
40 unresolved customer complaints about cable service provided by the holder of a
41 State-issued franchise. The transition from local franchise agreements to State-issued
42 franchises will occur gradually.

43 Due to the expected improvement in customer service and the gradual change
44 to State-issued franchises, the impact of the requirement in new G.S. 66-356 on the

1 staffing needs of the Consumer Protection Division is not clear. The Office of the
2 Attorney General is therefore requested to monitor the number and type of cable service
3 complaints it receives from customers in areas served under a local franchise agreement
4 and from areas served under a State-issued franchise to determine whether the
5 Consumer Protection Division needs additional staff to fulfill the duty imposed by new
6 G.S. 66-356 and to make a report concerning staffing to the Fiscal Research Division of
7 the North Carolina General Assembly by April 1, 2007.

8 **SECTION 18.** The Consumer Protection Division of the Attorney General's
9 Office must report to the Revenue Laws Study Committee on or before April 1 of each
10 year, beginning April 1, 2008, on the following information concerning cable service
11 complaints the Division has received from cable customers under G.S. 66-356:

- 12 (1) The number of customer complaints.
- 13 (2) The types of customer complaints.
- 14 (3) The different means of resolving customer complaints.

15 **SECTION 19.** The Secretary of State has no authority to determine whether
16 a person who is providing video programming is providing cable service over a cable
17 system. An award of a State-issued franchise under Article 42 of Chapter 66 of the
18 General Statutes, as enacted by this act, does not affect a determination of whether
19 video programming provided by the holder of the franchise is considered cable service
20 provided over a cable system under federal law or under a state law that applies
21 substantially the same definitions of "cable service" and "cable system" as federal law.
22 A person who provides video programming may obtain a State-issued franchise under
23 Article 42 of Chapter 66 of the General Statutes, as enacted by this act, and thereby
24 become subject to that Article, regardless of whether the video programming the person
25 provides is considered cable service provided under a cable system under that Article or
26 under federal law.

27 **SECTION 20.** If any provision of this act or its application is held invalid,
28 the invalidity does not affect other provisions or applications of this act that can be
29 given effect without the invalid provisions or application, and to this end the provisions
30 of this act are severable.

31 **SECTION 21.** The Revenue Laws Study Committee must review the effect
32 Article 42 of Chapter 66 of the General Statutes, as enacted by this act, has on the issues
33 listed in this section to determine if any changes to the law are needed:

- 34 (1) Competition in video programming services.
- 35 (2) The number of cable service subscribers, the price of cable service by
36 service tier, and the technology used to deliver the service.
- 37 (3) The deployment of broadband in the State.

38 The Committee must review the impact of this Article on these issues every two years
39 and report its findings to the North Carolina General Assembly. The Committee must
40 make its first report to the 2008 Session of the North Carolina General Assembly.

41 **SECTION 22.** This act becomes effective January 1, 2007. Sections 7 and 8
42 of this act apply to the distribution made within 75 days after March 31, 2007, for the
43 quarter starting January 1, 2007.