

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Bill No. 554, Page 2, Section 32.310, Line 34, by inserting after all of said section  
2 and line the following:

3  
4 "67.2677. For purposes of sections 67.2675 to 67.2714, the following terms mean:

5 (1) "Cable operator", as defined in 47 U.S.C. Section 522(5);

6 (2) "Cable system", as defined in 47 U.S.C. Section 522(7);

7 (3) "Franchise", an initial authorization, or renewal of an authorization, issued by a  
8 franchising entity, regardless of whether the authorization is designated as a franchise, permit,  
9 license, resolution, contract, certificate, agreement, or otherwise, that authorizes the provision of  
10 video service and any affiliated or subsidiary agreements related to such authorization;

11 (4) "Franchise area", the total geographic area authorized to be served by an incumbent  
12 cable operator in a political subdivision as of August 28, 2007, or, in the case of an incumbent local  
13 exchange carrier, as such term is defined in 47 U.S.C. Section 251(h), or affiliate thereof, the area  
14 within such political subdivision in which such carrier provides telephone exchange service;

15 (5) "Franchise entity", a political subdivision that was entitled to require franchises and  
16 impose fees on cable operators on the day before the effective date of sections 67.2675 to 67.2714,  
17 provided that only one political subdivision may be a franchise entity with regard to a geographic  
18 area;

19 (6) (a) "Gross revenues", limited to amounts billed to video service subscribers ~~[or received~~  
20 ~~from advertisers]~~ for the following:

21 a. Recurring charges for video service; and

22 b. Event-based charges for video service, including but not limited to pay-per-view and  
23 video-on-demand charges;

24 ~~[c. Rental of set top boxes and other video service equipment;~~

25 ~~—— d. Service charges related to the provision of video service, including but not limited to~~  
26 ~~activation, installation, repair, and maintenance charges;~~

27 ~~—— e. Administrative charges related to the provision of video service, including but not limited~~  
28 ~~to service order and service termination charges; and~~

29 ~~—— f. A pro rata portion of all revenue derived, less refunds, rebates, or discounts, by a video~~  
30 ~~service provider for advertising over the video service network to subscribers within the franchise~~  
31 ~~area where the numerator is the number of subscribers within the franchise area, and the~~  
32 ~~denominator is the total number of subscribers reached by such advertising;]~~

33 (b) "Gross revenues" do not include:

34 a. Discounts, refunds, and other price adjustments that reduce the amount of compensation  
35 received by an entity holding a video service authorization;

36 b. Uncollectibles;

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- 1 c. Late payment fees;
- 2 d. Amounts billed to video service subscribers to recover taxes, fees, or surcharges imposed
- 3 on video service subscribers or video service providers in connection with the provision of video
- 4 services, including the video service provider fee authorized by this section;
- 5 e. Fees or other contributions for PEG or I-Net support; [øf]
- 6 f. Charges for services other than video service that are aggregated or bundled with amounts
- 7 billed to video service subscribers, if the entity holding a video service authorization reasonably can
- 8 identify such charges on books and records kept in the regular course of business or by other
- 9 reasonable means;
- 10 g. Rental of set top boxes, modems, or other equipment used to provide or facilitate the
- 11 provision of video service;
- 12 h. Service charges related to the provision of video service, including but not limited to
- 13 activation, installation, repair, and maintenance charges;
- 14 i. Administrative charges related to the provision of video service, including but not limited
- 15 to service order and service termination charges; or
- 16 j. A pro rata portion of all revenue derived from advertising, less refunds, rebates, or
- 17 discounts;
- 18 (c) Except with respect to the exclusion of the video service provider fee, gross revenues
- 19 shall be computed in accordance with generally accepted accounting principles;
- 20 (7) "Household", an apartment, a house, a mobile home, or any other structure or part of a
- 21 structure intended for residential occupancy as separate living quarters;
- 22 (8) "Incumbent cable operator", the cable service provider serving cable subscribers in a
- 23 particular franchise area on September 1, 2007;
- 24 (9) "Low-income household", a household with an average annual household income of less
- 25 than thirty-five thousand dollars;
- 26 (10) "Person", an individual, partnership, association, organization, corporation, trust, or
- 27 government entity;
- 28 (11) "Political subdivision", a city, town, village, county;
- 29 (12) "Public right-of-way", the area of real property in which a political subdivision has a
- 30 dedicated or acquired right-of-way interest in the real property, including the area on, below, or
- 31 above the present and future streets, alleys, avenues, roads, highways, parkways, or boulevards
- 32 dedicated or acquired as right-of-way and utility easements dedicated for compatible uses. The term
- 33 does not include the airwaves above a right-of-way with regard to wireless telecommunications or
- 34 other nonwire telecommunications or broadcast service;
- 35 (13) "Video programming", programming provided by, or generally considered comparable
- 36 to programming provided by, a television broadcast station, as set forth in 47 U.S.C. Section
- 37 522(20);
- 38 (14) "Video service", the provision of video programming provided through wireline
- 39 facilities located at least in part in the public right-of-way without regard to delivery technology,
- 40 including internet protocol technology whether provided as part of a tier, on demand, or a per-
- 41 channel basis. This definition includes cable service as defined by 47 U.S.C. Section 522(6), but
- 42 does not include any video programming provided by a commercial mobile service provider defined
- 43 in 47 U.S.C. Section 332(d), or any video programming provided solely as part of and via a service
- 44 that enables users to access content, information, electronic mail, or other services offered over the
- 45 public internet;
- 46 (15) "Video service authorization", the right of a video service provider or an incumbent
- 47 cable operator that secures permission from the public service commission pursuant to sections
- 48 67.2675 to 67.2714, to offer video service to subscribers in a political subdivision;
- 49 (16) "Video service network", wireline facilities, or any component thereof, located at least

in part in the public right-of-way that deliver video service, without regard to delivery technology, including internet protocol technology or any successor technology. The term video service network shall include cable systems;

(17) "Video service provider", any person that distributes video service through a video service network pursuant to a video service authorization;

(18) "Video service provider fee", the fee imposed under section 67.2689.

67.2689. 1. A franchise entity may collect a video service provider fee equal to not more than five percent of the gross revenues ~~[from each]~~ charged to each customer of a video service provider that is providing video service in the geographic area of such franchise entity. The video service provider fee shall apply equally to all video service providers within the geographic area of a franchise entity.

2. Beginning August 28, 2023, franchise entities are prohibited from collecting a video service provider fee in excess of four and one-half percent of such gross revenues. Beginning August 28, 2024, franchise entities are prohibited from collecting a video service provider fee in excess of four percent of such gross revenues. Beginning August 28, 2025, franchise entities are prohibited from collecting a video service provider fee in excess of three and one-half percent of such gross revenues. Beginning August 28, 2026, franchise entities are prohibited from collecting a video service provider fee in excess of three percent of such gross revenues. Beginning August 28, 2027, and continuing thereafter, franchise entities are prohibited from collecting a video service provider fee in excess of two and one-half percent of such gross revenues.

3. Except as otherwise expressly provided in sections 67.2675 to 67.2714, neither a franchise entity nor any other political subdivision shall demand any additional fees, licenses, gross receipt taxes, or charges on the provision of video services by a video service provider and shall not demand the use of any other calculation method.

~~[3. All video service providers providing service in the geographic area of a franchise entity shall pay the video service provider fee at the same percent of gross revenues as had been assessed on the incumbent cable operator by the franchise entity immediately prior to the date of enactment of sections 67.2675 to 67.2714, and such percentage shall continue to apply until the date that the incumbent cable operator's franchise existing at that time expires or would have expired if it had not been terminated pursuant to sections 67.2675 to 67.2714. The franchise entity shall notify the applicant for a video service authorization of the applicable gross revenue fee percentage within thirty days of the date notice of the applicant is provided.]~~

4. Not more than once per calendar year after the date that the incumbent cable operator's franchise existing on August 28, 2007, expires or would have expired if it had not been terminated pursuant to sections 67.2675 to 67.2714, or in any political subdivision where no franchise applied on the date of enactment of sections 67.2675 to 67.2714, no more than once per calendar year after the video service provider fee was initially imposed, a franchise entity, may, upon ninety days notice to all video service providers, elect to adjust the amount of the video service provider fee subject to state and federal law, but in no event shall such fee exceed ~~[five percent of a video service provider's gross revenue]~~ the calculation defined in subsection 1 and 2 of this section.

5. The video service provider fee shall be paid to each franchise entity requiring such fee on or before the last day of the month following the end of each calendar quarter ~~[and shall be calculated as a percentage of gross revenues, as defined under section 67.2677].~~ Any payment made pursuant to subsection 8 of section 67.2703 shall be made at the same time as the payment of the video service provider fee.

6. Any video service provider ~~[may]~~ shall identify and collect the amount of the video service provider fee and collect any support under subsection 8 of section 67.2703 as separate line items on subscriber bills.

67.2720. 1. There is hereby established the "Task Force on the Future of Right-Of-Way

1 Management and Taxation", which shall be composed of the following members:

2 (1) Two members of the senate to be appointed by the president pro tempore of the senate;

3 (2) One member of the senate to be appointed by the minority floor leader of the senate;

4 (3) Two members of the house of representatives to be appointed by the speaker of the  
5 house of representatives;

6 (4) One member of the house of representatives to be appointed by the minority floor leader  
7 of the house of representatives;

8 (5) Four members that are municipal officials or other political subdivision officials, two to  
9 be appointed by the president pro tempore of the senate and two to be appointed by the speaker of  
10 the house of representatives;

11 (6) Four experts in the telecommunications industry, two to be appointed by the president  
12 pro tempore of the senate and two to be appointed by the speaker of the house of representatives;

13 (7) A member of the municipal league of metro St. Louis appointed by the speaker of the  
14 house of representatives; and

15 (8) A member of the Missouri municipal league appointed by the president pro tempore of  
16 the senate.

17 2. A majority of the members of the task force shall constitute a quorum, but the  
18 concurrence of a majority of the members shall be required for the determination of any matter  
19 within the task force's duties.

20 3. The task force shall meet within thirty days after its creation and organize by selecting a  
21 chairperson and a vice chairperson, one of whom shall be a member of the senate and the other a  
22 member of the house of representatives.

23 4. The task force shall study best methods for right-of-way management, taxation of video  
24 services, and the future revenue needs of municipalities and political subdivisions as such revenue  
25 relates to video services.

26 5. The task force shall compile a full report of its activities for submission to the general  
27 assembly. The report shall be submitted not later than December 31, 2023, and shall include any  
28 recommendations which the task force may have for legislative action.

29 6. The task force shall be staffed by legislative personnel as is deemed necessary to assist  
30 the task force in the performance of its duties.

31 7. The members of the task force shall serve without compensation, but any actual and  
32 necessary expenses incurred in the performance of the task force's official duties by the task force,  
33 its members, and any staff assigned to the task force shall be paid from the joint contingent fund.

34 8. This section shall expire on December 31, 2023."; and

35  
36 Further amend said bill by amending the title, enacting clause, and intersectional references  
37 accordingly.