

1 **MULTI-CHANNEL VIDEO OR AUDIO**
2 **SERVICE TAX - COUNTY OR**
3 **MUNICIPALITY FRANCHISE FEE TAX**
4 **CREDIT**

5 2006 GENERAL SESSION

6 STATE OF UTAH

7 **Chief Sponsor: Brent H. Goodfellow**

8 House Sponsor: Wayne A. Harper

9
10 **LONG TITLE**

11 **General Description:**

12 This bill amends the Multi-Channel Video or Audio Service Tax Act to provide a
13 nonrefundable tax credit for a multi-channel video or audio service provider and require
14 that the multi-channel video or audio service provider pass through an amount equal to
15 the tax credit to purchasers located within the state.

16 **Highlighted Provisions:**

17 This bill:

- 18 ▶ defines terms;
- 19 ▶ provides a nonrefundable tax credit for a multi-channel video or audio service
20 provider;
- 21 ▶ requires a multi-channel video or audio service provider to pass through an amount
22 equal to the tax credit to purchasers located within the state;
- 23 ▶ provides that a tax on amounts paid or charged for multi-channel video or audio
24 service may not be reduced as a result of the amount a multi-channel video or audio
25 service provider passes through to its customers within this state; and
- 26 ▶ makes technical changes.

27 **Monies Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **59-26-102**, as enacted by Chapter 300, Laws of Utah 2004

34 **59-26-103**, as enacted by Chapter 300, Laws of Utah 2004

35 ENACTS:

36 **59-26-104.5**, Utah Code Annotated 1953



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **59-26-102** is amended to read:

40 **59-26-102. Definitions.**

41 As used in this chapter:

42 (1) "County or municipality franchise fee" means a franchise fee that a county or
43 municipality receives from a multi-channel video or audio service provider.

44 (2) "Franchise fee" is as defined in 47 U.S.C. Sec. 542, except that the term "cable
45 operator" or "cable subscriber" shall be interpreted to include a multi-channel video or audio
46 service provider.

47 ~~[(1) "multi-channel]~~ (3) (a) "Multi-channel video or audio service provider" means any
48 person or group of persons that:

49 ~~[(a)]~~ (i) provides multi-channel video or audio service and directly or indirectly owns a
50 significant interest in the multi-channel video or audio service; or

51 ~~[(b)]~~ (ii) otherwise controls or is responsible through any arrangement, the
52 management and operation of the multi-channel video or audio service~~[-and]~~.

53 ~~[(2)]~~ (b) "~~[multi-channel]~~ Multi-channel video or audio service provider" includes the
54 following except as specifically exempted by state or federal law:

55 ~~[(a)]~~ (i) a cable operator;

56 ~~[(b)]~~ (ii) a CATV provider;

57 ~~[(c)]~~ (iii) a multi-point distribution provider;

58 ~~[(d)]~~ (iv) a MMDS provider;

59 ~~[(e)]~~ (v) a SMATV operator;
 60 ~~[(f)]~~ (vi) a direct-to-home satellite service provider; or
 61 ~~[(g)]~~ (vii) a DBS provider.

62 (4) "Municipality" means a city or town.

63 Section 2. Section **59-26-103** is amended to read:

64 **59-26-103. Imposition of tax -- Rate.**

65 ~~[Beginning]~~ Subject to Section 59-26-104.5, beginning on July 1, 2004, there is
 66 imposed as provided in this part a tax on the purchaser equal to 6.25% of amounts paid or
 67 charged for multi-channel video or audio service provided by a multi-channel video or audio
 68 service provider:

- 69 (1) within the state; and
- 70 (2) to the extent permitted by federal law.

71 Section 3. Section **59-26-104.5** is enacted to read:

72 **59-26-104.5. Nonrefundable credit against tax -- Amounts passed through to**
 73 **customers within the state -- Tax may not be reduced by amounts passed through to**
 74 **customers within the state.**

75 (1) Beginning on July 1, 2006, a multi-channel video or audio service provider may
 76 claim a nonrefundable tax credit as provided in this section.

77 (2) The nonrefundable tax credit described in Subsection (1):

78 (a) may be claimed against the tax the multi-channel video or audio service provider
 79 would otherwise be required to collect under this chapter from its purchasers within the state;
 80 and

81 (b) is in an amount equal to the total amount of county or municipality franchise fees
 82 that the multi-channel video or audio service provider pays:

83 (i) to all of the counties and municipalities within the state that impose a county or
 84 municipality franchise fee; and

85 (ii) for the calendar quarter for which the multi-channel video or audio service provider
 86 files a return under this chapter.

87 (3) The nonrefundable tax credit described in Subsection (1) may not be carried
 88 forward or carried back.

89 (4) (a) Subject to Subsections (4)(b) and (c), a multi-channel video or audio service

90 provider shall pass through to its purchasers within the state an amount equal to the amount of
91 the nonrefundable tax credit the multi-channel video or audio service provider claims for a
92 calendar quarter.

93 (b) The amount that a multi-channel video or audio service provider passes through to
94 its purchasers within the state under Subsection (4)(a) shall be passed through during the same
95 calendar quarter as the calendar quarter for which the multi-channel video or audio service
96 provider claims the nonrefundable tax credit.

97 (c) A tax under this chapter on amounts paid or charged for multi-channel video or
98 audio service may not be reduced as a result of the amount a multi-channel video or audio
99 service provider passes through to its customers within this state under this Subsection (4).

Legislative Review Note
as of 11-29-05 7:16 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Mixed Membership Committee Note
as of 01-11-06 5:03 PM

The Tax Reform Task Force recommended this bill.

Membership: 13 legislators 2 non-legislators
Legislative Vote: 11 voting for 0 voting against 2 absent