

**MULTI-CHANNEL VIDEO OR AUDIO SERVICE
TAX - COUNTY OR MUNICIPALITY
FRANCHISE FEE TAX CREDIT**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: Wayne A. Harper

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Monies Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **59-26-102**, as enacted by Chapter 300, Laws of Utah 2004

33 **59-26-103**, as enacted by Chapter 300, Laws of Utah 2004

34 ENACTS:

35 **59-26-104.5**, Utah Code Annotated 1953



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

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

39 **59-26-102. Definitions.**

40 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

58 [~~(e)~~] (v) a SMATV operator;

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

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

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

63 **59-26-103. Imposition of tax -- Rate.**

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

68 (1) within the state; and

69 (2) to the extent permitted by federal law.

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

71 **59-26-104.5. Nonrefundable credit against tax -- Amounts passed through to**
72 **customers within the state -- Tax may not be reduced by amounts passed through to**
73 **customers within the state.**

74 (1) Beginning on July 1, 2007, a multi-channel video or audio service provider may
75 claim a nonrefundable tax credit as provided in this section.

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

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

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

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

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

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

88 (4) (a) Subject to Subsections (4)(b) and (c), a multi-channel video or audio service
89 provider shall pass through to its purchasers within the state an amount equal to the amount of

90 the nonrefundable tax credit the multi-channel video or audio service provider claims for a
91 calendar quarter.

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

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

Legislative Review Note
as of 1-4-07 3:51 PM

Office of Legislative Research and General Counsel

Fiscal Note

**S.B. 145 - Multi-channel Video or Audio Service Tax - County or Municipality
Franchise Fee Tax Credit**
2007 General Session
State of Utah

State Impact

Enactment of this bill could reduce the General Fund by \$9,536,000 in FY 2008 and by \$10,013,000 in FY 2009.

	<u>FY 2007 Approp.</u>	<u>FY 2008 Approp.</u>	<u>FY 2009 Approp.</u>	<u>FY 2007 Revenue</u>	<u>FY 2008 Revenue</u>	<u>FY 2009 Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$9,536,000)	(\$10,013,000)
Total	\$0	\$0	\$0	\$0	(\$9,536,000)	(\$10,013,000)

Individual, Business and/or Local Impact

Individual impact will vary depending on the service provided.
