ASSEMBLY BILL NO. 551–COMMITTEE ON WAYS AND MEANS

MAY 5, 2009

Referred to Committee on Ways and Means

SUMMARY—Imposes a tax on the provision of video service to subscribers in this State. (BDR 32-1299)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Contains Appropriation not included in Executive Budget.

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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 taxation; imposing a tax on the provision of video service to subscribers in this State; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 8 of this bill imposes a tax on the provision of video service to subscribers in this State in the amount of 5 percent of the gross revenue derived by the provider of that service from sales of video service to those subscribers. A video service provider is entitled to a credit against the tax for any franchise fees paid to local governments in this State. **Section 11** of this bill causes the tax to become effective on January 1, 2010. **Section 10** of this bill makes an appropriation to the Department of Taxation for the establishment and administration of the tax.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 360 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Direct-to-home satellite service" has the meaning ascribed to it in section 602 of the Telecommunications Act of***

1996, Public Law 104-104, as that section existed on July 1, 2009, or may thereafter be amended.

Sec. 4. *1. "Gross revenue" means:*

(a) Any revenue a video service provider receives from its subscribers for providing video service to those subscribers, as determined in accordance with generally accepted accounting principles, except for revenue excluded pursuant to subsection 3; and

(b) Any other consideration a video service provider receives from its subscribers for providing video service when it is received in a transaction that would evade imposition of the tax imposed by section 8 of this act if such consideration is not included in revenue, except for revenue excluded pursuant to subsection 3.

2. The term includes, without limitation:

(a) Recurring monthly charges;

(b) Event-based charges, including, without limitation, charges for pay per view and video on demand;

(c) Charges for the rental of set-top boxes and other equipment;

(d) Service charges, including, without limitation, charges for activation, installation, repair and maintenance;

(e) Administrative charges, including, without limitation, charges for service orders and service termination; and

(f) The amount of any revenue received by a video service provider for providing video service when such service is a component of a bundle of services or products sold for a single price, but only to the extent the revenue received by the video service provider for the bundle of services or products is proportionately allocated among each of the components.

3. The term does not include:

(a) Revenue not actually received, regardless of when it is billed.

(b) Refunds, rebates or discounts made to subscribers.

(c) Revenue from providing service other than video service, including, without limitation, revenue from providing:

(1) Telecommunication service; or

(2) Information service that is not video service.

(d) Any fee imposed on the video service provider that is passed through to and paid by subscribers, including, without limitation, a franchise fee imposed by a governmental entity on a video service provider for the privilege of providing video service.

(e) Revenue from the sale of video service to any person who purchases the video service for commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing,

distribution or redistribution, in whole or in part, to any other person.

(f) Any tax of general applicability.

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

(h) Late payment fees collected from subscribers.

Sec. 5. *"Subscriber" means a person who purchases video service, other than a person who purchases video service for commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution or redistribution, in whole or in part, to any other person.*

Sec. 6. *"Video service" means the provision of multichannel video programming generally considered comparable to video programming delivered by a television broadcast station, cable television service or other digital television service, or direct-to-home satellite service, whether provided as part of a tier, on-demand or on a per-channel basis, without regard to the technology used to deliver the video service, including, without limitation, Internet protocol technology or any successor technology, except that the term does not include any service that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.*

Sec. 7. *"Video service provider" or "provider" means any person who provides video service to subscribers in this State, except that the term does not include any person whom this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.*

Sec. 8. *1. There is hereby imposed on each video service provider a tax in the amount of 5 percent of the gross revenue derived by the provider from the sale of video service to subscribers in this State.*

2. A video service provider is entitled to a credit against the amount of the tax imposed by this section each year in an amount that equals the sum of all the franchise fees imposed on the provider for that year pursuant to NRS 711.670, except that the credit must not exceed 5 percent of the gross revenue of the provider for that year from the sale of video service to subscribers in this State.

3. A video service provider:

(a) May pass the tax imposed by this section through to and collect the tax from its subscribers in this State; and

(b) Shall remit the tax to the Department on a quarterly basis.

Sec. 9. ***The Department shall:***

1. Adopt such regulations as the Department deems necessary to carry out the provisions of sections 2 to 9, inclusive, of this act.

2. Deposit all the proceeds of the tax imposed by section 8 of this act in the State Treasury for credit to the State General Fund.

Sec. 10. 1. There is hereby appropriated from the State General Fund to the Department of Taxation to carry out the provisions of sections 2 to 9, inclusive, of this act:

For the Fiscal Year 2009-2010 .... $337,762

For the Fiscal Year 2010-2011 .... $50,485

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 17, 2010, and September 16, 2011, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 17, 2010, and September 16, 2011, respectively.

Sec. 11. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 9, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2010, for all other purposes.

3. Section 10 of this act becomes effective on July 1, 2009.