

**LOCAL TAXATION OF UTILITIES LIMITATION -
COMPUTATION OF GROSS RECEIPTS**

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: John L. Valentine

AN ACT RELATING TO THE LOCAL TAXATION OF UTILITIES LIMITATION;
PROVIDING DEFINITIONS; CLARIFYING AMOUNTS INCLUDED IN THE
CALCULATION OF GROSS REVENUES; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

11-26-1, as last amended by Chapter 280, Laws of Utah 1996

11-26-3, as enacted by Chapter 104, Laws of Utah 1993

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

Section 1. Section **11-26-1** is amended to read:

11-26-1. Definitions -- Ceiling on local charges based on gross revenues of public service provider.

(1) [~~(a)~~] As used in this [~~section, "exchange"~~] part:

(a) (i) "Exchange access services" means telephone exchange lines or channels, and services provided in connection with them, which are necessary to provide access from the premises of a subscriber to the local switched public telecommunications network of the public utility to effect communication or the transfer of information.

[~~(b)~~] (ii) "Exchange access services" does not include:

[~~(i)~~] (A) private line services;

[~~(ii)~~] (B) long distance toll services;

[~~(iii)~~] (C) carrier access services;

[~~(iv)~~] (D) telephonic services that are not regulated by the Utah Public Service

Commission; and

[~~(v)~~] (E) services that emulate functions available in customer premises equipment.

(b) "Local charge" means one or more of the following charges paid by a public service

provider to a county or municipality:

- (i) a tax;
- (ii) a license;
- (iii) a fee;
- (iv) a license fee;
- (v) a license tax; or
- (vi) a charge similar to Subsections (1)(b)(i) through (v).

(c) "Public service provider" means:

- (i) a public utility; or
- (ii) a person or entity engaged in the business of supplying:
 - (A) telephone service; or
 - (B) taxable energy as defined in Section 10-1-303.

~~(2) [Counties and municipalities]~~ A county or a municipality may not impose upon, charge, or collect from a public ~~[utility or other person or entity engaged in the business of supplying telephone service, or taxable energy, any tax, license, fee, license fee, license tax, or similar charge, or any combination of any of these, based upon]~~ service provider local charges:

(a) imposed on the basis of the gross revenues of the [utility, person, or entity] public service provider;

(b) derived from sales [or], use, or both sales and use of the service within the county or municipality[, which charges total more]; and

(c) in a total amount that is greater than 6% of gross revenues.

(3) The determination of gross revenues under this section may not include:

- ~~(a) the sale of gas or electricity as special fuel for motor vehicles; [or]~~
- ~~(b) the sale of telephone service provided by a public utility regulated by the Utah Public~~

~~Service Commission other than:~~

- ~~(i) exchange access services;~~
- ~~(ii) extended area service;~~
- ~~(iii) customer access line charges; and~~

(iv) any services for which a tax or other charge was being paid pursuant to this section as of January 1, 1992[-]; or

(c) a local charge.

(4) This section may not be construed to:

(a) affect or limit the power of counties or municipalities to impose sales and use taxes under Title 59, Chapter 12, Part 2, [~~The~~] Local Sales and Use Tax Act, or Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or

(b) grant any county or municipality the power to impose a [~~tax, license, fee, license fee, license tax, or similar~~] local charge not otherwise provided for by law.

(5) This section takes precedence over any conflicting provision of law.

Section 2. Section **11-26-3** is amended to read:

11-26-3. Local charge on certain revenues of public utility or telephone service suppliers -- Notice and hearing requirements.

(1) If a municipality seeks to [~~levy~~] impose a new [~~tax or other~~] local charge, or to change an existing [~~tax or other~~] local charge, on the gross revenues of a public [~~utilities~~] utility or other [~~entities~~] entity providing telephone service, [~~which tax or charge~~] and the local charge would apply to extended area service or to customer access line charges, the municipality shall advertise its intention to do so and hold a public hearing on the proposed ordinance.

(2) The advertisement under Subsection (1) shall meet the same size, type, placement, and frequency requirements as provided for notices of property tax certified tax rate increases in Section 59-2-919.