

SB0165S01 compared with SB0165

~~{Omitted text}~~ shows text that was in SB0165 but was omitted in SB0165S01

inserted text shows text that was not in SB0165 but was inserted into SB0165S01

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1 **Municipal Broadband Service Amendments**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Ryan D. Wilcox

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3 **LONG TITLE**

4 **General Description:**

5 This bill addresses a municipality's provision of a broadband service.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ defines terms;

9 ▶ establishes requirements and limitations in relation to a municipality providing a broadband service;

11 ▶ addresses bonding, reporting, and public disclosure relating to the provision of a broadband service by a municipality; and

13 ▶ makes technical and conforming changes.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

19 AMENDS:

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- 20 **10-8-14** , as last amended by Laws of Utah 2019, Chapter 99 , as last amended by Laws of Utah
2019, Chapter 99
- 21 **10-18-101** , as enacted by Laws of Utah 2001, Chapter 83 , as enacted by Laws of Utah 2001,
Chapter 83
- 22 **10-18-102** , as last amended by Laws of Utah 2016, Chapter 419 , as last amended by Laws of Utah
2016, Chapter 419
- 23 **10-18-103** , as last amended by Laws of Utah 2013, Chapter 187 , as last amended by Laws of Utah
2013, Chapter 187
- 24 **10-18-104** , as last amended by Laws of Utah 2014, Chapter 189 , as last amended by Laws of Utah
2014, Chapter 189
- 25 **10-18-105** , as last amended by Laws of Utah 2016, Chapter 419 , as last amended by Laws of Utah
2016, Chapter 419
- 26 **10-18-201** , as enacted by Laws of Utah 2001, Chapter 83 , as enacted by Laws of Utah 2001,
Chapter 83
- 27 **10-18-202** , as enacted by Laws of Utah 2001, Chapter 83 , as enacted by Laws of Utah 2001,
Chapter 83
- 28 **10-18-203** , as last amended by Laws of Utah 2023, Chapter 435 , as last amended by Laws of Utah
2023, Chapter 435
- 29 **10-18-204** , as last amended by Laws of Utah 2016, Chapter 419 , as last amended by Laws of Utah
2016, Chapter 419
- 30 **10-18-301** , as enacted by Laws of Utah 2001, Chapter 83 , as enacted by Laws of Utah 2001,
Chapter 83
- 31 **10-18-302** , as last amended by Laws of Utah 2023, Chapter 435 , as last amended by Laws of Utah
2023, Chapter 435
- 32 **10-18-303** , as last amended by Laws of Utah 2023, Chapter 435 , as last amended by Laws of Utah
2023, Chapter 435
- 33 **10-18-304** , as enacted by Laws of Utah 2001, Chapter 83 , as enacted by Laws of Utah 2001,
Chapter 83
- 34 **10-18-305** , as enacted by Laws of Utah 2001, Chapter 83 , as enacted by Laws of Utah 2001,
Chapter 83
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10-18-306 , as enacted by Laws of Utah 2001, Chapter 83 , as enacted by Laws of Utah 2001, Chapter 83

36 11-13-201 , as last amended by Laws of Utah 2015, Chapter 265 , as last amended by Laws of Utah 2015, Chapter 265

37 20A-1-203 , as last amended by Laws of Utah 2024, Third Special Session, Chapter 3 , as last amended by Laws of Utah 2024, Third Special Session, Chapter 3

38

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

40 Section 1. Section 10-8-14 is amended to read:

41 **10-8-14. Utility and telecommunications services -- Service beyond municipal limits --
Retainage -- Notice of service and agreement.**

43 (1) As used in this section, "~~[public telecommunications-]~~ communications service [~~facilities]~~ facility" means the same as that term is defined in Section 10-18-102.

45 (2)

(a) A municipality may:

46 ~~[(a)]~~ (i) construct, maintain, and operate waterworks, sewer collection, sewer treatment systems, gas works, electric light works, broadband services, telecommunications lines, cable television lines, public transportation systems, or ~~[public telecommunications]~~ communications service facilities;

50 ~~[(b)]~~ (ii) authorize the construction, maintenance, and operation of the works or systems ~~[listed]~~ described in Subsection ~~[(2)(a)]~~ (2)(a)(i) by others;

52 ~~[(c)]~~ (iii) purchase or lease the works or systems ~~[listed]~~ described in Subsection ~~[(2)(a)]~~ (2)(a)(i) from any person or corporation; and

54 ~~[(d)]~~ (iv) subject to Subsection (2)(b), sell and deliver the surplus product or service capacity of any works or system ~~[listed]~~ described in Subsection ~~[(2)(a)]~~ (2)(a)(i), not required by the municipality or the municipality's inhabitants, to others beyond the limits of the municipality[, except the sale and delivery of:] .

58 (b) The sale and delivery of the surplus product or service capacity described in Subsection (2)(a)(iv) in relation to:

60 (i) retail electricity beyond the municipal boundary is governed by Subsections (3) through ~~[(8)]~~ (7);

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- (ii) broadband services, cable television services, or public telecommunications services is governed by Subsection ~~[(12)]~~ (11); and
- 64 (iii) water is governed by Sections 10-7-14 and 10-8-22.
- 65 (3) If any payment on a contract with a private person, firm, or corporation to construct waterworks, sewer collection, sewer treatment systems, gas works, electric works, broadband services, telecommunications lines, cable television lines, public transportation systems, or [public telecommunications] communications service facilities [-]is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.
- 71 (4)
- (a) Except as provided in ~~[Subsection (4)(b), (6), or (10)]~~ Subsection (4)(b), (5), or (9), a municipality may not sell or deliver the electricity produced or distributed by the municipality's electric works constructed, maintained, or operated in accordance with Subsection (2) to a retail customer located beyond the municipality's municipal boundary.
- 76 (b) A municipality that ~~[provides]~~ provided retail electric service to a customer beyond the municipality's municipal boundary on or before June 15, 2013, may continue to serve that customer if:
- 79 (i) on or before December 15, 2013, the municipality ~~[provides]~~ provided the electrical corporation, as defined in Section 54-2-1, that is obligated by the municipality's certificate of public convenience and necessity to serve the customer with an accurate and complete verified written notice ~~[described in Subsection (4)(c) that identifies]~~ identifying each customer served by the municipality beyond the municipality's municipal boundary;
- 85 (ii) no later than June 15, 2014, the municipality ~~[enters]~~ entered into a written filing agreement for the provision of electric service with the electrical corporation; and
- 87 (iii) the Public Service Commission ~~[approves]~~ approved the written filing agreement in accordance with Section 54-4-40.
- 89 ~~[(e) The municipality shall include in the written notice required in Subsection (4)(b)(i) for each customer:]~~
- 91 ~~[(i) the customer's meter number;]~~
- 92 ~~[(ii) the location of the customer's meter by street address, global positioning system coordinates, metes and bounds description, or other similar method of meter location;]~~
- 95 ~~[(iii) the customer's class of service; and]~~

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- 96 [~~(iv) a representation that the customer was receiving service from the municipality on or before June~~
15, 2013.]
- 98 [~~(5) The written filing agreement entered into in accordance with Subsection (4)(b)(ii) shall require the~~
following:]
- 100 [~~(a) The municipality shall provide electric service to a customer identified in accordance with~~
Subsection (4)(b)(i) unless the municipality and the electrical corporation subsequently agree in
writing that the electrical corporation will provide electric service to the customer.]
- 104 [~~(b) If a customer who is located outside the municipal boundary and who is not identified in~~
accordance with Subsection (4)(b)(i) requests service from the municipality after June 15, 2013,
the municipality may not provide that customer electric service unless the municipality submits
a request to and enters into a written agreement with the electric corporation in accordance with
Subsection (6).]
- 109 [~~(6)~~ (5)
- (a) A municipality may submit to the electrical corporation a request to provide electric service to an
electric customer [~~described in Subsection (5)(b)~~ who is located outside the municipal boundary
and who was not identified in accordance with Subsection (4)(b)(i).
- 113 (b) If a municipality submits a request described in Subsection (5)(a), the electrical corporation shall
respond to the request within 60 days.
- 115 (c) If the electrical corporation agrees to allow the municipality to provide electric service to the
customer:
- 117 (i) the electrical corporation and the municipality shall enter into a written agreement;
- 118 (ii) the municipality shall agree in the written agreement to subsequently transfer service to the
customer described in Subsection [~~(5)(b)~~ (5)(a) if the electrical corporation notifies, in writing,
the municipality that the electrical corporation has installed a facility capable of providing electric
service to the customer; and
- 122 (iii) the municipality may provide the service if:
- 123 (A) except as provided in Subsection [~~(6)(e)(iii)(B)~~ (5)(c)(iii)(B), the Public Service Commission
approves the agreement in accordance with Section 54-4-40; or
- 126 (B) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7), the governing
board of the electrical cooperative approves the agreement.

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- (d) The municipality or the electrical corporation may terminate the agreement for the provision of electric service if the Public Service Commission imposes a condition authorized in Section 54-4-40 that is a material change to the agreement.
- 132 [~~(7)~~] (6) If the municipality and electrical corporation make a transfer described in Subsection [~~(6)~~](~~e~~)
~~(ii)~~] (5)(c)(ii):
- 134 (a)
- (i) the municipality shall transfer the electric service customer to the electrical corporation; and
- 136 (ii) the electrical corporation shall provide electric service to the customer; and
- 137 (b) the municipality shall transfer a facility in accordance with and for the value as provided in Section
10-2-421.
- 139 [~~(8)~~] (7)
- (a) In accordance with Subsection [~~(8)~~](~~b~~)] (7)(b), the municipality shall establish a reasonable mechanism for resolving potential future complaints by an electric customer located outside the municipality's municipal boundary.
- 142 (b) The mechanism shall require:
- 143 (i) that the rates and conditions of service for a customer outside the municipality's boundary are at
least as favorable as the rates and conditions of service for a similarly situated customer within the
municipality's boundary; and
- 146 (ii) if the municipality provides a general rebate, refund, or other payment to a customer located within
the municipality's boundary, that the municipality also provide the same general rebate, refund, or
other payment to a similarly situated customer located outside the municipality's boundary.
- 150 [~~(9)~~] (8) The municipality is relieved of any obligation to transfer a customer described in Subsection
[~~(5)~~](~~b~~)] (5)(a) or facility used to serve the customer in accordance with Subsection [~~(6)~~](~~e~~)(~~ii~~)] (5)(c)
(ii) if the municipality annexes the property on which the customer is being served.
- 154 [~~(10)~~] (9)
- (a) A municipality may provide electric service outside of the municipality's municipal boundary to a facility that is solely owned and operated by the municipality for municipal service.
- 157 (b) A municipality's provision of electric service to a facility that is solely owned and operated by the
municipality does not expand the municipality's electric service area.
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[(H)] (10) Nothing in this section expands or diminishes the ability of a municipality to enter into a wholesale electrical sales contract with another municipality that serves electric customers to sell and deliver wholesale electricity to the other municipality.

162 [(H2)] (11) A municipality's actions under this section related to works or systems involving broadband services, public telecommunications services, or cable television services are subject to the requirements of [~~Chapter 18, Municipal Cable Television and Public Telecommunications Services Act~~] Chapter 18, Municipal Cable Television and Communications Services Act.

167 Section 2. Section **10-18-101** is amended to read:

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CHAPTER 18. MUNICIPAL CABLE TELEVISION

AND COMMUNICATIONS SERVICES ACT

170 **10-18-101. Title -- Policy statement.**

171 [(1)] This chapter is known as the "~~Municipal Cable Television and Public Telecommunications Services Act.~~"

173 [(2)] The Legislature finds that it is the policy of this state to:

174 [(a)] (1) ensure that broadband services, cable television services, and public telecommunications services are provided through fair competition consistent with the federal [~~Telecommunications Act of 1996, Pub. L. 104-104~~] Communications Act of 1934, as amended, in order to provide the widest possible diversity of information and news sources to the general public;

179 [(b)] (2) advance the exercise of rights under the First Amendment of the Constitution of the United States;

181 [(c)] (3) enhance the development and widespread use of technological advances in providing broadband services, cable television services, and public telecommunications services;

184 [(d)] (4) encourage improved customer service of broadband services, cable television services, and public telecommunications services at competitive rates;

186 [(e)] (5) ensure that broadband services, cable television services, and public telecommunications services are each provided within a consistent, comprehensive, and nondiscriminatory federal, state, and local government framework; and

189 [(f)] (6) ensure that when a municipality provides to [its] the municipality's inhabitants broadband services, cable television services, public telecommunications services, or [~~both~~] any combination of those services, and competes with private providers whose activities are regulated by the

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municipality, the municipality does not discriminate against the competing providers of the same services.

194 Section 3. Section **10-18-102** is amended to read:

195 **10-18-102. Definitions.**

As used in this chapter:

197 (1)

(a) "Broadband service" means a mass-market retail or wholesale service that provides, via wire or radio, the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the service.

201 (b) "Broadband service" does not include dial-up Internet access service.

202 [(+)] (2) "Cable television service" means:

203 (a) the one-way transmission to subscribers of:

204 (i) video programming; or

205 (ii) other programming service; and

206 (b) subscriber interaction, if any, that is required for the selection or use of:

207 (i) the video programming; or

208 (ii) other programming service.

209 [(2)] (3) "Capital [~~eosts~~] cost" means [~~all-eosts~~] the cost of providing a service that [~~are~~] is capitalized in accordance with generally accepted accounting principles.

211 (4) "Communications service facility" means a facility described in Subsection 10-18-105(2).

213 [(3)] (5) "Cross subsidize" means to pay a cost included in the direct costs or indirect costs of providing a service that is not accounted for in the full cost of accounting of providing the service.

216 [(4)] (6) "Direct [~~eosts~~] cost" means [~~those expenses~~] an expense of a municipality that:

217 (a) [~~are~~] is directly attributable to providing:

218 (i) a broadband service;

219 [(+)] (ii) a cable television service; or

220 [(+)] (iii) a public telecommunications service; and

221 (b) would be eliminated if the service described in Subsection [(4)(a)] (6)(a) were not provided by the municipality.

223 [(5)] (7) "Feasibility consultant" means an individual or entity with expertise in the processes and economics of providing:

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- 225 (a) a broadband service;
226 ~~[(a)]~~ (b) a cable television service; and
227 ~~[(b)]~~ (c) a public telecommunications service.
228 ~~[(6)]~~ (8)
(a) "Full-cost accounting" means the accounting of all costs incurred by a municipality in providing:
230 (i) a broadband service;
231 ~~[(i)]~~ (ii) a cable television service; or
232 ~~[(ii)]~~ (iii) a public telecommunications service.
233 (b) The costs included in a full-cost accounting include all:
234 (i) capital costs;
235 (ii) direct costs; and
236 (iii) indirect costs.
237 ~~[(7)]~~ (9)
(a) "Indirect ~~[eosts]~~ cost" means ~~[any costs:]~~ a cost identified with two or more services or other
functions that is not directly identified with a single service or function.
240 ~~[(i) identified with two or more services or other functions; and]~~
241 ~~[(ii) that are not directly identified with a single service or function.]~~
242 (b) "Indirect ~~[eosts]~~ cost" may include cost factors for:
243 (i) administration;
244 (ii) accounting;
245 (iii) personnel;
246 (iv) purchasing;
247 (v) legal support; and
248 (vi) other staff or departmental support.
249 ~~[(8)]~~ (10) "Private provider" means a person that:
250 (a) provides:
251 (i) a broadband service;
252 ~~[(i)]~~ (ii) a cable television ~~[services]~~ service; or
253 ~~[(ii)]~~ (iii) a public telecommunications ~~[services]~~ service; and
254 (b) is a private entity.
255 ~~[(9)]~~ (11)

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(a) "Public telecommunications service" means the two-way transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means offered to the public generally.

259 (b) "Public telecommunications service" does not include broadband service.

260 [~~(10)~~ "Public telecommunications service facilities" means a facility described in Subsection
10-18-105(2).]

262 [~~(11)~~] (12) ["Subscribers"] "Subscriber" means a person that lawfully receives:

263 (a) a broadband service;

264 (b) a cable television [services] service; or

265 [~~(b)~~] (c) a public telecommunications [services] service.

266 Section 4. Section **10-18-103** is amended to read:

267 **10-18-103. Antitrust immunity.**

268 (1) When a municipality [~~is offering~~] offers or [~~providing~~] provides a broadband service, cable
television service, or public telecommunications service, the immunity from antitrust liability
afforded to political subdivisions of the state under Section 76-10-3109 does not apply to the
municipality providing those services.

272 (2) A municipality that provides a broadband service, cable television service, or a public
telecommunications service is subject to applicable antitrust liabilities under the federal Local
Government Antitrust Act of 1984, 15 U.S.C. Secs. 34 to 36.

275 Section 5. Section **10-18-104** is amended to read:

276 **10-18-104. Application to existing contracts.**

277 (1)

(a) If, before [~~the sooner of~~] March 1 [~~or the effective date of the chapter~~], 2001, the legislative body of
a municipality authorized the municipality to offer or provide a cable television [services] service or
public telecommunications [~~services~~] service, each authorized [~~service~~] cable television service or
public telecommunications service:

281 (i) is exempt from Part 2, Conditions for Providing Services; and

282 (ii) is subject to Part 3, Operational Requirements and Limitations.

283 (b) The exemption described in Subsection (1)(a)(i) [~~may~~] does not apply to any cable television service
or public telecommunications service authorized by the legislative body of a municipality on or
after [~~the sooner of~~] March 1 [~~or the effective date of this chapter~~], 2001.

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287 (2)

(a) If, before March 1, 2025, the legislative body of a municipality authorized the municipality to offer or provide a broadband service, each authorized broadband service:

290 (i) is exempt from Part 2, Conditions for Providing Services; and

291 (ii) is subject to Part 3, Operational Requirements and Limitations.

292 (b) The exemption described in Subsection (2)(a)(i) does not apply to any broadband service authorized by the legislative body of a municipality on or after March 1, 2025.

294 [(2)] (3) This chapter does not:

295 (a) invalidate any contract for cable television service or public telecommunications service entered into by a municipality before [~~the sooner of]~~March 1 [~~or the effective date of this chapter~~] , 2001, or any contract for broadband service entered into by a municipality before March 1, 2025:

299 (i) for the design, construction, equipping, operation, or maintenance of [~~facilities~~] a facility used or to be used by the municipality, or by a private provider under a contract with the municipality for the purpose of providing:

302 (A) a broadband service;

303 [(A)] (B) a cable television [~~services~~] service; or

304 [(B)] (C) a public telecommunications [~~services~~] service;

305 (ii) with a private provider for the use of the [~~facilities~~] facility described in Subsection [(2)(a)(i)] (3)(a) (i) in connection with the private provider offering:

307 (A) a broadband service;

308 [(A)] (B) a cable television [~~services~~] service; or

309 [(B)] (C) a public telecommunications [~~services~~] service;

310 (iii) with a subscriber for providing:

311 (A) a broadband service;

312 [(A)] (B) a cable television service; or

313 [(B)] (C) a public telecommunications service; or

314 (iv) to obtain or secure financing for the acquisition or operation of the municipality's facilities or equipment used in connection with providing:

316 (A) a broadband service;

317 [(A)] (B) a cable television service; or

318 [(B)] (C) a public telecommunications service; or

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- 319 (b) impair any security interest granted by a municipality as collateral for the municipality's obligations
under a contract described in Subsection [~~(2)(a)~~] (3)(a).
- 321 [~~(3)~~]
- (a) ~~A municipality meeting the one or more of the following conditions is exempt from this chapter as
provided in Subsection (3)(b):]~~
- 323 [~~(i) a municipality that adopts or enacts a bond resolution on or before January 1, 2001, to fund
facilities or equipment that the municipality uses to provide:]~~
- 325 [~~(A) cable television services; or]~~
- 326 [~~(B) public telecommunications services; or]~~
- 327 [~~(ii) a municipality that has operated for at least three years consecutively before the sooner of
March 1 or the effective date of this chapter:]~~
- 329 [~~(A) a cable television service; or]~~
- 330 [~~(B) a public telecommunications service.]~~
- 331 [~~(b) A municipality described in Subsection (3)(a) is exempt from this chapter except for:]~~
- 332 [~~(i) Subsection 10-18-303(4);]~~
- 333 [~~(ii) Subsection 10-18-303(7);]~~
- 334 [~~(iii) Subsection 10-18-303(9);]~~
- 335 [~~(iv) Section 10-18-304; and]~~
- 336 [~~(v) Section 10-18-305.]~~
- 337 (4)
- (a) A municipality that, on or before January 1, 2001, enacts a bond resolution to fund a facility
or equipment that the municipality uses to provide a cable television service or public
telecommunications service is exempt from certain provisions of this chapter, as described in
Subsection (5), in relation to the specific service funded by that bond resolution.
- 342 (b) A municipality that, on or before January 1, 2025, enacts a bond resolution to fund a facility
or equipment that the municipality uses to provide a broadband service is exempt from certain
provisions of this chapter, as described in Subsection (5), in relation to the specific service funded
by that bond resolution.
- 346 (c) A municipality that, before March 1, 2001, operates a cable television service or a public
telecommunications service for at least three consecutive years, is exempt from certain provisions

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of this chapter, as described in Subsection (5), in relation to the specific service operated during that time period.

350 (d) A municipality that, before March 1, 2025, operates a broadband service for at least three
consecutive years, is exempt from certain provisions of this chapter, as described in Subsection (5),
in relation to the specific service operated during that time period.

354 (5) In accordance with Subsection (4), a municipality described in Subsection (4) is exempt from this
chapter except for:

356 (a) Subsection 10-18-303(6);

357 (b) Subsection 10-18-303(9);

358 (c) Subsection 10-18-303(12);

359 (d) Section 10-18-304; and

360 (e) Section 10-18-305.

361 [~~(4) For the time period beginning on the effective date of this chapter and ending on December 31,~~
~~2001, a municipality that operated a cable television service as of January 1, 2001, is exempt from~~
~~Subsection 10-18-301(1)(d).]~~

364 Section 6. Section **10-18-105** is amended to read:

365 **10-18-105. Scope of chapter.**

366 (1) Nothing in this chapter authorizes any county or other political subdivision of this state other than a
municipality to:

368 (a) provide:

369 (i) a broadband service;

370 [(i)] (ii) a cable television service; or

371 [(ii)] (iii) a public telecommunications service; or

372 (b) purchase, lease, construct, maintain, or operate a facility for the purpose of providing:

373 (i) a broadband service;

374 (ii) a cable television service; or

375 [(ii)] (iii) a public telecommunications service.

376 (2) Except as provided in Subsections (3) and (4), this chapter does not apply to a municipality [
]purchasing, leasing, constructing, or equipping [facilities] a facility:

378 (a) that [are] is designed to provide [services] a service within the municipality[-]; and

379 (b) that the municipality:

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- 380 (i) uses for internal municipal government purposes; or
381 (ii) by written contract, leases, sells capacity in, or grants other similar rights to a private provider to use
the [facilities] facility in connection with a private provider offering:
- 384 (A) a broadband service;
385 [~~(A)~~] (B) a cable television [services] service; or
386 [~~(B)~~] (C) a public telecommunications [services] service.
- 387 (3)
(a) As used in this Subsection (3), "municipal entity" means:
- 388 (i) a municipality; or
389 (ii) an entity created pursuant to an agreement:
- 390 (A) under Title 11, Chapter 13, Interlocal Cooperation Act; and
391 (B) to which a municipality is a party.
- 392 (b) [~~Notwithstanding Subsection (2), a~~] A municipal entity shall comply with Subsection (3)(c) if the
municipal entity purchases, leases, constructs, or equips [facilities] a facility that the municipal
entity by written contract leases, sells capacity in, or grants other similar rights to a private provider
to use the [facilities] facility in connection with a private provider offering:
- 397 (i) a broadband service;
398 [~~(i)~~] (ii) a cable television [services] service; or
399 [~~(ii)~~] (iii) a public telecommunications [services] service.
- 400 (c) A municipal entity described in Subsection (3)(b) shall, with respect to an action described in
Subsection (3)(b), comply with the obligations imposed on a municipality pursuant to:
- 403 (i) Section 10-18-302; and
404 (ii) Subsections [~~10-18-303(3)~~] 10-18-303(5) and [~~(4)~~] (6).
- 405 (4) A municipality described in Subsection [~~10-18-105(2)~~] (2) may call an election under Section
10-18-204 with respect to the provision of [~~public telecommunications~~] a communications service
[facilities] facility.
- 408 Section 7. Section **10-18-201** is amended to read:
409 **10-18-201. Limitations on providing broadband, cable television, and public**
telecommunications services.
- 411 (1) Except as provided in this chapter, a municipality may not:
412 (a) provide to one or more subscribers:

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- 413 (i) a broadband service;
- 414 [~~(i)~~] (ii) a cable television service; or
- 415 [~~(i)~~] (iii) a public telecommunications service; or
- 416 (b) for the purpose of providing a broadband service, a cable television service, or a public telecommunications service to one or more subscribers, purchase, lease, construct, maintain, or operate any facility.
- 419 (2) For purposes of this chapter, a municipality provides a broadband service, cable television service, or public telecommunications service if the municipality provides the service:
- 422 (a) directly or indirectly, including through an authority or instrumentality:
- 423 (i) acting on behalf of the municipality; or
- 424 (ii) for the benefit of the municipality;
- 425 (b) by itself;
- 426 (c) through:
- 427 (i) an entity created pursuant to an agreement under Title 11, Chapter 13, Interlocal Cooperation Act, to which the municipality is a party;
- 429 (ii) a partnership; or
- 430 [~~(i)~~] (iii) a joint venture; or
- 431 (d) by contract, resale, or otherwise.
- 432 Section 8. Section **10-18-202** is amended to read:
- 433 **10-18-202. Required steps before a municipality may provide broadband, cable television, or public telecommunications services.**
- Before a municipality may engage or offer to engage in an activity described in Subsection 10-18-201(1), the legislative body of the municipality shall:
- 437 (1) hold a preliminary public hearing;
- 438 (2) if the legislative body elects to proceed after holding the preliminary public hearing required by Subsection (1), approve the hiring of a feasibility consultant to conduct a feasibility study in accordance with Section 10-18-203;
- 441 (3) determine whether under the feasibility study conducted under Section 10-18-203, the average annual revenues under Subsection 10-18-203(2)(f) exceed the average annual costs under Subsection 10-18-203(2)(e) by at least the amount necessary to meet the bond obligations of any

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bonds issued to fund the proposed broadband service, cable television [~~services~~] service, or public telecommunications [~~services~~] service:

446 (a) based on the feasibility study's analysis:

447 (i) for the first year of the study; and

448 (ii) the five-year projection; and

449 (b) separately stated with respect to:

450 (i) the proposed broadband service;

451 [(i)] (ii) the proposed cable television [~~services~~] service; or

452 [(ii)] (iii) the proposed public telecommunications [~~services~~] service;

453 (4) if the conditions of Subsection (3) are met, hold the public hearings required by Section 10-18-203; and

455 (5) after holding the public hearings required by Section 10-18-203, if the legislative body of the municipality elects to proceed, adopt by resolution the feasibility study.

457 Section 9. Section **10-18-203** is amended to read:

458 **10-18-203. Feasibility study on providing broadband, cable television, or public telecommunications services -- Public hearings -- Notice.**

460 (1) If a feasibility consultant is hired under Section 10-18-202, the legislative body of the municipality shall require the feasibility consultant to:

462 (a) complete the feasibility study in accordance with this section;

463 (b) submit to the legislative body by no later than 180 days from the date the feasibility consultant is hired to conduct the feasibility study:

465 (i) the full written results of the feasibility study; and

466 (ii) a summary of the results that is no longer than one page in length; and

467 (c) attend the public hearings described in Subsection (4) to:

468 (i) present the feasibility study results; and

469 (ii) respond to questions from the public.

470 (2) The feasibility study described in Subsection (1) shall at a minimum consider:

471 [(a)]

(i) ~~if the municipality is proposing to provide cable television services to subscribers, whether the municipality providing cable television services in the manner proposed by the municipality will hinder or advance competition for cable television services in the municipality; or]~~

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- 475 ~~[(ii) if the municipality is proposing to provide public telecommunications services to subscribers, whether the municipality providing public telecommunications services in the manner proposed by the municipality will hinder or advance competition for public telecommunications services in the municipality;]~~
- 479 (a) whether the municipality providing a broadband service, a cable television service, or a public telecommunications service in the manner proposed by the municipality will hinder or advance competition for the same service in the municipality;
- 482 (b) whether but for the municipality any person would provide the proposed:
- 483 (i) broadband service;
- 484 ~~[(i)]~~ (ii) cable television ~~[services]~~ service; or
- 485 ~~[(ii)]~~ (iii) public telecommunications ~~[services]~~ service;
- 486 (c) the fiscal impact on the municipality of:
- 487 (i) the capital investment in facilities that will be used to provide the proposed:
- 488 (A) broadband service;
- 489 ~~[(A)]~~ (B) cable television ~~[services]~~ service; or
- 490 ~~[(B)]~~ (C) public telecommunications ~~[services]~~ service; and
- 491 (ii) the expenditure of funds for labor, financing, and administering the proposed:
- 492 (A) broadband service;
- 493 ~~[(A)]~~ (B) cable television ~~[services]~~ service; or
- 494 ~~[(B)]~~ (C) public telecommunications ~~[services]~~ service;
- 495 (d) the projected growth in demand in the municipality for the proposed:
- 496 (i) broadband service;
- 497 ~~[(i)]~~ (ii) cable television ~~[services]~~ service; or
- 498 ~~[(ii)]~~ (iii) public telecommunications ~~[services]~~ service;
- 499 (e) the projections~~[-at]~~ , from the time of the feasibility study~~[-and]~~ , for the next ~~[five]~~ 10 years, of a full-cost accounting for a municipality to purchase, lease, construct, maintain, or operate the facilities necessary to provide the proposed:
- 502 (i) broadband service;
- 503 ~~[(i)]~~ (ii) cable television ~~[services]~~ service; or
- 504 ~~[(ii)]~~ (iii) public telecommunications ~~[services]~~ service; and
- 505

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(f) the projections~~[-at]~~ , from the time of the feasibility study~~[-and]~~ , for the next ~~[five]~~ 10 years of the revenues to be generated from the proposed:

507 (i) broadband service;

508 ~~[(+)]~~ (ii) cable television ~~[services]~~ service; or

509 ~~[(+)]~~ (iii) public telecommunications ~~[services]~~ service.

510 (3) For purposes of the financial projections required under Subsections (2)(e) and (f), the feasibility consultant shall assume that the municipality will price the proposed broadband service, cable television ~~[services]~~ service, or public telecommunications ~~[services]~~ service consistent with Subsection ~~[10-18-303(5)]~~ 10-18-303(7).

514 (4) If the results of the feasibility study satisfy the revenue requirement of Subsection 10-18-202(3), the legislative body, at the next regular meeting after the legislative body receives the results of the feasibility study, shall schedule at least two public hearings to be held:

518 (a) within ~~[60]~~ 90 days after the day of the meeting at which the public hearings are scheduled;

520 (b) at least ~~[seven days]~~ three weeks apart; and

521 (c) for the purpose of allowing:

522 (i) the feasibility consultant to present the results of the feasibility study; and

523 (ii) the public to:

524 (A) become informed about the feasibility study results; and

525 (B) ask questions of the feasibility consultant about the results of the feasibility study.

527 (5) The municipality shall provide notice of the public hearings required under Subsection (4) for the municipality, as a class A notice under Section 63G-30-102, for at least three weeks before the day on which the first public hearing required under Subsection (4) is held.

531 Section 10. Section **10-18-204** is amended to read:

532 **10-18-204. Vote permissible -- Referendum.**

533 (1)

(a)

~~[(+)]~~ A legislative body ~~[-]~~of a municipality may, ~~[-]~~by a majority vote, call an election on whether the municipality shall provide a proposed:

535 (i) broadband service;

536 ~~[(A)]~~ (ii) cable television ~~[services]~~ service; or

537 ~~[(B)]~~ (iii) public telecommunications ~~[services]~~ service.

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- 538 [(ii)] (b) A municipal legislative body that, before July 1, 2016, approves the provision of public
telecommunications service facilities may, by a majority vote, call an election on whether the
municipality shall provide proposed public telecommunications service facilities.
- 542 [(b)] (c) If under Subsection (1)(a) the legislative body calls an election, the election shall be held:
544 (i)
(A) at the next municipal general election; or
545 (B) as provided in Subsection 20A-1-203(1), at a local special election the purpose of which is
authorized by this section; and
547 (ii) in accordance with Title 20A, Election Code, except as provided in this section.
- 548 [(e)] (d)
(i) The notice of [the] an election [-]called under Subsection [(1)(a)(i)] (1)(a) shall include with any
other information required by law:
550 (A) a summary of the broadband service, cable television [services] service, or public
telecommunications [services] service that the legislative body of the municipality proposes to
provide to subscribers residing within the boundaries of the municipality;
554 (B) the feasibility study summary under Section 10-18-203;
555 (C) a statement that a full copy of the feasibility study is available for inspection and copying;[-and]
557 (D) the location in the municipality where the feasibility study may be inspected or copied[-] ; and
559 (E) a hyperlink on the municipality's website where the feasibility study may be accessed.
- 561 (ii) The notice of an election called under Subsection [(1)(a)(ii)] (1)(b) shall include a summary
prepared by the municipality describing the proposed[-public] communications service
[facilities] facility.
- 564 [(d)] (e)
(i) For an election called under Subsection [(1)(a)(i)] (1)(a), the ballot for [-]the election shall pose the
question substantially as follows:
566 "Shall the [name of the municipality] provide [broadband service, cable television service, or
public telecommunications service] to the inhabitants of the [municipality]?".
- 568 (ii) For an election called under Subsection [(1)(a)(ii)] (1)(b), the ballot for the election shall pose the
question substantially as follows:
570 "Shall the [name of the municipality] provide [public telecommunications] a communications
service [facilities] facility within [name of the municipality] by [brief description of the method

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or means and financing terms, including total principal and interest costs, by which the~~public~~ communications service ~~facilities~~ facility will be provided]?".

574 [(e)] (f) The ballot proposition may not take effect until submitted to the electors and approved by the majority of those voting on the ballot.

576 (2) In accordance with Title 20A, Chapter 7, Issues Submitted to the Voters, a municipal legislative body's action to have the municipality [-]over which the legislative body presides[-] provide a broadband service, cable television [~~services~~] service, or public telecommunications [~~services~~] service is subject to local referenda.

580 (3)

(a) The results of an election called under Subsection [~~(1)(a)(ii)~~] (1)(b) are not binding and do not:

582 (i) require the municipality that called the election to take, or refrain from taking, any action; or

584 (ii) limit the municipality that called the election from taking any action authorized under Section 10-8-14 or 10-18-105.

586 (b) An election called under Subsection [~~(1)(a)(ii)~~] (1)(b) does not exempt a municipality from the applicable requirements of this [~~Title 10, Chapter 18, Municipal Cable Television and Public Telecommunications Services Act~~] chapter.

589 Section 11. Section **10-18-301** is amended to read:

590 **10-18-301. Enterprise funds for broadband, cable television, or public telecommunications services.**

592 (1) A municipality that provides a broadband service, a cable television service, or a public telecommunications service under this chapter:

594 (a) shall establish [~~an~~] separate enterprise [~~fund~~] funds to account for the municipality's operations of a broadband service, cable television service, or public telecommunications service;

597 (b) may fund the services through:

598 (i) revenues earned from operation of the broadband, cable television, or public telecommunications service; or

600 (ii) revenue bonds or government obligation bonds authorized in Section 10-18-302;

601 [~~(b)~~] (c) may, for accounting purposes only, [~~may~~]account for [~~its~~] the municipality's broadband services, cable television services, and [~~its~~]public telecommunications services in a single enterprise fund under Chapter 6, Uniform Fiscal Procedures Act for Utah Cities;

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[(e)] (d) shall, consistent with the requirements of Section 10-6-135, adopt separate operating and capital budgets for the municipality's:

607 (i) broadband services;

608 [(+)] (ii) cable television services; and

609 [(+)] (iii) public telecommunications services;

610 [(d)] (e) may not transfer any appropriation or other balance in any enterprise fund established by the municipality under this section to another enterprise fund;[-and]

612 [(e)] (f) may not transfer any appropriation or other balance in any other enterprise fund established by the municipality under Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, to any enterprise fund established by the municipality under this section[-];

615 (g) shall maintain separation between the municipality's role as a competitive provider of a broadband service, cable television service, or public telecommunications service, and the municipality's role as a regulator over private providers that offer a service in competition with the service offered by the municipality, including with respect to the personnel, real property, operational capabilities, and other resources between these separate functions; and

621 (h) may not share any non-public information between employees or contractors responsible for executing the municipality's role as a competitive provider of a broadband service, cable television service, or public telecommunications service, and employees or contractors responsible for executing the municipality's role as a regulator over private providers that offer a service in competition with a service offered by the municipality.

627 (2) The restrictions on transfers described in Subsections [(+)(d)] (1)(e) and [(e)] (f) do not apply to transfers made by a municipality between other enterprise funds established by the municipality.

630 Section 12. Section **10-18-302** is amended to read:

631 **10-18-302. Bonding authority.**

632 (1) In accordance with Title 11, Chapter 14, Local Government Bonding Act, the legislative body of a municipality may by resolution determine to issue one or more revenue bonds or general obligation bonds to finance the capital costs for facilities necessary to provide to subscribers:

636 (a) a broadband service;

637 [(a)] (b) a cable television service; or

638 [(b)] (c) a public telecommunications service.

639 (2) The resolution described in Subsection (1) shall:

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- 640 (a) describe the purpose for which the indebtedness is to be created; and
- 641 (b) specify the dollar amount of the one or more bonds proposed to be issued.
- 642 (3)
- (a) A revenue bond issued under this section shall be secured and paid for:
- 643 (i) from the revenues generated by the municipality from providing:
- 644 (A) subject to Subsection (4), a broadband service, if the revenue bond is issued to finance a facility for that broadband service;
- 646 [~~(A)~~] (B) a cable television [services with respect to revenue bonds] service, if the revenue bond is issued to finance [facilities] a facility for [the municipality's] that cable television [services] service; and
- 649 [~~(B)~~] (C) a public telecommunications [services with respect to revenue bonds] service, if the revenue bond is issued to finance [facilities] a facility for [the municipality's] that public telecommunications [services] service; and
- 652 (ii) notwithstanding Subsection (3)(b) and Subsection [~~10-18-303(3)(a)~~] 10-18-303(5)(a), and subject to the requirements of Subsection (5), from revenues generated under Title 59, Chapter 12, Sales and Use Tax Act[, if:] .
- 655 [~~(A) notwithstanding Subsection 11-14-201(3) and except as provided in Subsections (4) and (5), the revenue bond is approved by the registered voters in an election held:]~~
- 658 [~~(F) except as provided in Subsection (3)(a)(ii)(A)(II), pursuant to the provisions of Title 11, Chapter 14, Local Government Bonding Act, that govern bond elections; and]~~
- 661 [~~(H) notwithstanding Subsection 11-14-203(2), at a regular general election;]~~
- 662 [~~(B) the revenues described in this Subsection (3)(a)(ii) are pledged as security for the revenue bond; and]~~
- 664 [~~(C) the municipality or municipalities annually appropriate the revenues described in this Subsection (3)(a)(ii) to secure and pay the revenue bond issued under this section.]~~
- 667 (b) Except as provided in Subsection [~~(3)(a)(ii)~~] (5), a municipality may not pay the origination, financing, or other carrying costs associated with [~~the~~] one or more revenue bonds issued under this section from the [~~town or city, respectively,~~] municipality's general funds or other enterprise funds [~~of the municipality~~].
- 671 {~~(4)~~} {Subject to Subsection (5), and except as provided in Subsection (6), a bond authorized under this section may only be issued after the legislative body of a municipality obtains the approval of

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registered voters at an election held in accordance with Title 11, Chapter 14, Local Government Bonding Act.} }

- 675 ~~{(5)}~~ (4) A municipality may only issue a revenue bond ~~{secured by revenues generated under Title 59, Chapter 12, Sales and Use Tax Act}~~ described in Subsection (3)(a)(i)(A), if:
- 672 (a) the municipality issuing the revenue bond holds at least two public hearings that:
- 673 (i) occur on separate days; and
- 674 (ii) are not combined with any other public hearing;
- 675 (b) the municipality issuing the revenue bond provides notice of the public hearings described in Subsection (4)(a) as a class B notice under Section 63G-30-102, for 30 days before the day of the first public hearing:
- 678 (i) for either the designated service area for the proposed municipal broadband network, or for the municipality; and
- 680 (ii) for each private broadband provider within the municipality; and
- 681 (c) the notice described in Subsection (4)(b) identifies:
- 682 (i) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;
- 684 (ii) the purpose for the bond to be issued;
- 685 (iii) the maximum amount of the revenues described in Subsection (3)(a)(i)(A) that will be pledged in any fiscal year;
- 687 (iv) the maximum number of years that the pledge will be in effect;
- 688 (v) the time, place, and location of the public hearings;
- 689 (vi) the anticipated number of subscribers over the life of the bond;
- 690 (vii) a description of existing private broadband coverage within the municipality;
- 691 (viii) a description of the service capabilities of existing private broadband providers within the municipality; and
- 693 (ix) a cost accounting breakdown of how bond proceeds will be allocated for creating and operating the municipal broadband network, including administrative costs.
- 695 (5) A municipality may issue a revenue bond described in Subsection (3)(a)(ii), if:
- 677 (a) notwithstanding Subsection 11-14-201(3) and except as provided in Subsection (6), the revenue bond is approved by the registered voters in an election held:
- 679 (i) except as provided in Subsection (5)(a)(ii), pursuant to the provisions of Title 11, Chapter 14, Local Government Bonding Act, that govern bond elections; and

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- 681 (ii) notwithstanding Subsection 11-14-203(2), at a regular general election;
682 (b) the revenues described in this Subsection (5) are pledged as security for the revenue bond; and
684 (c) the municipality annually appropriates the revenues described in this Subsection (5) to secure and
pay the revenue bond issued under this section.
- 686 [~~(4)~~
(a) ~~As used in this Subsection (4), "municipal entity" means an entity created pursuant to an~~
~~agreement:]~~
- 688 [(i) ~~under Title 11, Chapter 13, Interlocal Cooperation Act; and]~~
689 [(ii) ~~to which a municipality is a party.]~~
- 690 [(b) ~~The requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality or municipal entity that~~
~~issues revenue bonds, or to a municipality that is a member of a municipal entity that issues revenue~~
~~bonds, if:]~~
- 693 [(i) ~~on or before March 2, 2004, the municipality that is issuing revenue bonds or that is a member of a~~
~~municipal entity that is issuing revenue bonds has published the first notice described in Subsection~~
~~(4)(b)(iii);]~~
- 696 [(ii) ~~on or before April 15, 2004, the municipality that is issuing revenue bonds or that is a member of a~~
~~municipal entity that is issuing revenue bonds makes the decision to pledge the revenues described~~
~~in Subsection (3)(a)(ii) as security for the revenue bonds described in this Subsection (4)(b)(ii);]~~
- 700 [(iii)
(A) ~~the municipality that is issuing the revenue bonds or the municipality that is a member of the~~
~~municipal entity that is issuing the revenue bonds has held a public hearing for which public notice~~
~~was given by publication of the notice for the municipality, as a class A notice under Section~~
~~63G-30-102, for two weeks before the day of the public hearing; and]~~
- 705 [(B) ~~the notice identifies:]~~
- 706 [(I) ~~that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;]~~
- 708 [(H) ~~the purpose for the bonds to be issued;]~~
- 709 [(III) ~~the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in~~
~~any fiscal year;]~~
- 711 [(IV) ~~the maximum number of years that the pledge will be in effect; and]~~
- 712 [(V) ~~the time, place, and location for the public hearing;]~~
- 713 [(iv) ~~the municipal entity that issues revenue bonds:]~~

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- 714 [(A) adopts a final financing plan; and]
715 [(B) in accordance with Title 63G, Chapter 2, Government Records Access and Management Act,
makes available to the public at the time the municipal entity adopts the final financing plan;]
718 [(F) the final financing plan; and]
719 [(H) all contracts entered into by the municipal entity, except as protected by Title 63G, Chapter 2,
Government Records Access and Management Act;]
721 [(v) any municipality that is a member of a municipal entity described in Subsection (4)(b)(iv):]
723 [(A) not less than 30 calendar days after the municipal entity complies with Subsection (4)(b)(iv)(B),
holds a final public hearing;]
725 [(B) provides notice, at the time the municipality schedules the final public hearing, to any person who
has provided to the municipality a written request for notice; and]
728 [(C) makes all reasonable efforts to provide fair opportunity for oral testimony by all interested parties;
and]
730 [(vi) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than
50% of the average annual debt service of all revenue bonds described in this section to provide
service throughout the municipality or municipal entity may be paid from the revenues described in
Subsection (3)(a)(ii).]
734 [(5)] (6) [On or after July 1, 2007, the { } The { } voter approval requirements { } of Subsection (3)(a)
(ii)(A) { } described in Subsections (4) and (5) do] The voter approval requirement described in
Subsection (5)(a) does not apply to a municipality that issues a revenue [bonds] bond described in
Subsection { (5) } (3)(a)(ii), if:
756 (a) the bond is issued to finance a cable television service or a public telecommunications service;
737 [(a)] (b)
(i) the municipality that is issuing the revenue [bonds has held] bond holds a public hearing for which
public notice was given by publication of the notice for the municipality, as a class A notice under
Section 63G-30-102, for 14 days before the day of the public hearing; and
741 (ii) the notice identifies:
742 (A) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;
744 (B) the purpose for the [bonds] bond to be issued;
745 (C) the maximum amount of the revenues described in Subsection [(3)(a)(ii)] (5) that will be pledged in
any fiscal year;

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- 747 (D) the maximum number of years that the pledge will be in effect; and
- 748 (E) the time, place, and location for the public hearing; and
- 749 ~~[(b)]~~ (c) ~~[except with respect to a municipality that issued bonds prior to March 1, 2004,]~~ not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection ~~{(3)(a)(ii)}~~ {5}.
- 753 ~~[(6)]~~ (7) A municipality that issues ~~[bonds]~~ a bond pursuant to this section may not make or grant any undue or unreasonable preference or advantage to ~~[itself]~~ the municipality or to any private provider of:
- 756 (a) a broadband service;
- 757 ~~[(a)]~~ (b) a cable television ~~[services]~~ service; or
- 758 ~~[(b)]~~ (c) a public telecommunications ~~[services]~~ service.
- 759 (8) A municipality that issues a bond pursuant to this section shall timely disclose to the general public all matters material to the municipality's issuance of a bond to fund the service, including:
- 762 (a) debt service delinquencies and defaults;
- 763 (b) non-payment covenant defaults;
- 764 (c) unscheduled reserve fund draws;
- 765 (d) adverse tax opinions;
- 766 (e) credit rating changes;
- 767 (f) bond calls;
- 768 (g) tender offers; and
- 769 (h) private debt placements.
- 791 Section 13. Section **10-18-303** is amended to read:
- 792 **10-18-303. General operating limitations -- Notice of change to price list.**
~~[—A municipality that provides a cable television service or a public telecommunications service under this chapter is subject to the operating limitations of this section.]~~
- 775 (1) A municipality that provides a broadband service, a cable television service, or a public telecommunications service under this chapter is subject to the operating limitations of this section.
- 778 (2) A municipality that provides a broadband service shall comply with:
- 779 (a) the Communications Act of 1934, as amended; and

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- 780 (b) the regulations issued by the Federal Communications Commission under the Communications Act
781 of 1934, as amended.
- 782 [(4)] (3) A municipality that provides a cable television service shall comply with:
- 783 (a) the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.; and
- 784 (b) the regulations issued by the Federal Communications Commission under the Cable
785 Communications Policy Act of 1984, 47 U.S.C. 521, et seq.
- 786 [(2)] (4) A municipality that provides a public telecommunications service shall comply with:
- 787 (a) the [~~Telecommunications Act of 1996, Pub. L. 104-104~~] Communications Act of 1934, as amended;
- 788 (b) the regulations issued by the Federal Communications Commission under the [~~Telecommunications~~
789 ~~Act of 1996, Pub. L. 104-104~~] Communications Act of 1934, as amended;
- 790 (c) Section 54-8b-2.2 relating to:
- 791 (i) the interconnection of essential facilities; and
- 792 (ii) the purchase and sale of essential services; and
- 793 (d) the rules made by the Public Service Commission of Utah under Section 54-8b-2.2.
- 794 [(3)] (5) A municipality may not cross subsidize [~~its~~] a broadband service, cable television
795 [~~services~~] service, or [~~its~~] public telecommunications [~~services~~] service with:
- 796 (a) tax dollars;
- 797 (b) income from other municipal or utility services;
- 798 (c) below-market rate loans from the municipality; or
- 799 (d) any other means.
- 800 [(4)] (6)
- 801 (a) A municipality may not make or grant any undue or unreasonable preference or advantage to
802 [~~itself~~] the municipality or to any private provider of:
- 803 (i) a broadband service;
- 804 [(i)] (ii) a cable television [~~services~~] service; or
- 805 [(ii)] (iii) a public telecommunications [~~services~~] service.
- 806 (b) A municipality shall apply, without discrimination as to [~~itself and to any~~] the municipality or a
807 private provider, the municipality's ordinances, rules, [~~and~~] policies, and practices, including those
808 relating to:
- 809 (i) obligation to serve;
- 810 (ii) access to and use of public rights of way;
- 811
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- 813 (iii) access to and use of municipally owned or controlled conduit, towers, and utility poles;
815 ~~[(iii)]~~ (iv) permitting;
816 ~~[(iv)]~~ (v) performance bonding;
817 ~~[(v)]~~ (vi) reporting;[-and]
818 ~~[(vi)]~~ (vii) quality of service; and
819 (viii) administration of or participation in federal, state, or local funding opportunities for broadband deployment.
- 821 (c) Subsections ~~[(4)(a)]~~ (6)(a) and (b) do not supersede the exception for a rural telephone company in [Section 251 of the Telecommunications Act of 1996, Pub. L. 104-104] 47 U.S.C. Sec. 251.
- 824 ~~[(5)]~~ (7) In calculating the rates charged by a municipality for a broadband service, a cable television service, or a public telecommunications service, the municipality:
- 826 (a) shall include within its rates an amount equal to all taxes, fees, and other assessments that would be applicable to a similarly situated private provider of the same services, including:
- 829 (i) federal, state, and local taxes;
830 (ii) franchise fees;
831 (iii) permit fees;
832 (iv) pole attachment fees; and
833 (v) fees similar to those described in Subsections ~~[(5)(a)(i)]~~ (7)(a)(i) through (iv); and
- 834 (b) may not price ~~[any]~~ a broadband service, cable television service, or public telecommunications service at a level that is less than the sum of:
- 836 (i) the actual direct costs of providing the service;
837 (ii) the actual indirect costs of providing the service; and
838 (iii) the amount determined under Subsection ~~[(5)(a)]~~ (7)(a).
- 839 ~~[(6)]~~ (8)
- (a) A municipality that provides a broadband service, cable television ~~[services]~~ service, or public telecommunications ~~[services]~~ service shall establish and maintain a comprehensive price list of all broadband services, cable television services, or public telecommunications services offered by the municipality.
- 843 (b) The price list ~~[required by]~~ described in Subsection ~~[(6)(a)]~~ (8)(a) shall:
- 844 (i) include all terms and conditions relating to the municipality providing each broadband service, cable television service, or public telecommunications service offered by the municipality;

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- 847 (ii) be posted on the Utah Public Notice Website created in Section 63A-16-601; and
848 (iii) be available for inspection:
849 (A) at a designated office of the municipality; and
850 (B) during normal business hours.
851 (c) At least five days before the date a change to a municipality's price list becomes effective, the
municipality shall provide notice of the change:
853 (i) for the municipality, as a class A notice under Section 63G-30-102, for at least five days; and
855 (ii) to any other persons requesting notification of any changes to the municipality's price list.
857 (d) A municipality may not offer a broadband service, a cable television service, or a public
telecommunications service except in accordance with the prices, terms, and conditions set forth in
the municipality's price list.
860 ~~[(7)]~~ (9) A municipality may not offer to provide or provide a broadband service, cable television
[~~services~~] service, or public telecommunications [~~services~~] service to a subscriber that does not
reside within the geographic boundaries of the municipality.
863 ~~[(8)]~~ (10)
(a) A municipality shall keep accurate books and records of the municipality's:
864 (i) broadband services;
865 ~~[(i)]~~ (ii) cable television services; and
866 ~~[(ii)]~~ (iii) public telecommunications services.
867 (b) The books and records required to be kept under Subsection ~~[(8)(a)]~~ (10)(a) are subject to legislative
audit to verify the municipality's compliance with the requirements of this chapter including:
870 (i) pricing;
871 (ii) recordkeeping; and
872 (iii) antidiscrimination.
873 (11)
(a) A municipality shall annually produce a report of the municipality's provision of broadband
services, cable television services, and public telecommunications services.
876 (b) The report described in Subsection (11)(a) shall include, for each broadband service, cable
television service, or public telecommunications service provided by the municipality:
879 (i) the price list described in Subsection (8) that is effective at the time of the report;
880 (ii) the number of households and businesses within the coverage area of the municipality's network;

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- 882 (iii) the number of subscribers to the service, including net additions or losses, for the prior fiscal year;
884 (iv) the revenues generated from the service for the prior fiscal year;
885 (v) a full-cost accounting for the prior fiscal year regarding:
886 (A) the municipality's purchase, lease, construction, maintenance, and operation of the facilities
necessary to provide the service; and
888 (B) the municipality's expenditure of funds for labor, financing, and administering the service;
890 (vi) the projected growth in demand in the municipality for the service for the next 10 years;
892 (vii) the projections, from the time of the report for the next 10 years, of a full-cost accounting for a
municipality to purchase, lease, construct, maintain, or operate the facilities necessary to provide the
service;
895 (viii) the projections, from the time of the report for the next 10 years, of the revenues to be generated
from the service;
897 (ix) with respect to the information described in Subsections (11)(b)(iv), (v), (vi), (vii), and (viii), a
comparison to the results of the feasibility study for the service adopted by the municipality under
Section 10-18-202;
900 (x) a determination as to whether the revenues described in Subsection (11)(b)(iv) exceed the costs
described in Subsection (11)(b)(v) by the amount necessary to meet the bond obligations of any
bonds issued to fund the service; and
903 (xi) a disclosure of events in the prior fiscal year that are material to the municipality's issuance of
bonds to fund the service, including:
905 (A) debt service delinquencies and defaults;
906 (B) non-payment covenant defaults;
907 (C) unscheduled reserve fund draws;
908 (D) adverse tax opinions;
909 (E) credit rating changes;
910 (F) bond calls;
911 (G) tender offers; and
912 (H) private debt placements.
913 (c) The report shall be submitted to the legislative body of the municipality before October 1 of each
year with a summary of the report findings that is no longer than one page in length.

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- (d) At the next regular meeting after the legislative body of the municipality receives the report, the legislative body shall schedule a public hearing to be held within 30 days after the day of the meeting at which the public hearing is scheduled, for the purpose of allowing:
- 920 (i) the municipality's staff to present the report; and
- 921 (ii) the public to become informed and ask questions about the report findings.
- 922 (e) The municipality shall provide notice of the public hearing described in Subsection (11)(d) for the municipality, as a class A notice under Section 63G-30-102, for at least two weeks before the day on which the public hearing is held.
- 925 (f) After the public hearing described in Subsection (11)(d), the legislative body of the municipality shall:
- 927 (i) adopt by resolution the report described in Subsection (11)(a); and
- 928 (ii) make the report available for inspection at a designated office of the municipality during normal business hours and via hyperlink on the municipality's website.
- 930 [(9)] (12) A municipality may not receive distributions from the Universal Public Telecommunications Service Support Fund established in Section 54-8b-15.
- 953 Section 14. Section **10-18-304** is amended to read:
- 954 **10-18-304. Eminent domain.**
- A municipality may not exercise [its] the municipality's power of eminent domain to condemn the plant [and] or equipment of a private provider for the purpose of providing to a subscriber:
- 937 (1) a broadband service;
- 938 [(1)] (2) a cable television service; or
- 939 [(2)] (3) a public telecommunications service.
- 961 Section 15. Section **10-18-305** is amended to read:
- 962 **10-18-305. Quality of service standards.**
- 942 (1) A municipality that provides a broadband service, a cable television service, or a public telecommunications service shall adopt an ordinance governing the quality of service the municipality shall provide to [its] the municipality's subscribers.
- 945 (2) The legislative body of the municipality shall ensure that the ordinance [required by] described in Subsection (1)[~~shall~~]:
- 947 (a) [be] is competitively neutral; and

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- 948 (b) [~~contain~~] contains standards that are substantially similar to the standards imposed on private
providers operating within the geographic boundaries of the municipality under:
- 951 (i) the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.;
- 952 (ii) the [~~Telecommunications Act of 1996, Pub. L. 104-104~~] Communications Act of 1934, as amended;
- 954 (iii) Title 54, Public Utilities;
- 955 (iv) regulations issued by the Federal Communications Commission under the statutes listed in
Subsections (2)(b)(i) and (ii); and
- 957 (v) rules made by the Public Service Commission of Utah under Title 54, Public Utilities.
- 980 Section 16. Section **10-18-306** is amended to read:
- 981 **10-18-306. Enforcement and appeal.**
- 961 (1) Before a person that is or is likely to have a substantial interest affected by a municipality's violation
of this chapter may file an action in district court for violation of this chapter, that person shall file a
written complaint with the municipality in accordance with this section.
- 965 (2)
- (a) A municipality that provides a broadband service, a cable television service, or a public
telecommunications service shall enact an ordinance establishing a procedure for the filing and
resolution of complaints relating to the municipality providing:
- 968 (i) a broadband service;
- 969 (ii) a cable television service; or
- 970 [~~(ii)~~] (iii) a public telecommunications service.
- 971 (b) The procedure [~~required by~~] described in Subsection (2)(a) shall:
- 972 (i) permit any person described in Subsection (1) to file a complaint including:
- 973 (A) an individual subscriber; or
- 974 (B) a private provider that competes with the municipality in the geographic boundaries of the
municipality;
- 976 (ii) establish an expedited process that requires, within 45 days after the date the complaint is filed, the
municipality to:
- 978 (A) [~~that~~] hold a hearing [~~be held~~] on the complaint, unless the parties to the proceeding waive the
requirement of a hearing; and
- 980 (B) [~~the issuance of~~] issue a final decision on the complaint; and
- 981

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(iii) provide that failure to render a decision within the time [allotted] required shall be treated as an adverse decision for purposes of appeal.

983 (3) Appeal of an adverse decision from the municipality may be taken to the district court for a de novo proceeding.

1006 Section 17. Section **11-13-201** is amended to read:

1007 **11-13-201. Joint exercise of power, privilege, or authority by public agencies -- Relationship to the Municipal Cable Television and Communications Services Act.**

988 (1)

(a) Any power, privilege, or authority exercised or capable of exercise by a Utah public agency may be exercised and enjoyed jointly with any other Utah public agency having the same power, privilege, or authority, in a manner consistent with the provisions of this chapter, and jointly with any out-of-state public agency to the extent that the laws governing the out-of-state public agency permit such joint exercise or enjoyment.

994 (b) Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges, and authority conferred by this chapter upon a public agency.

997 (2) This chapter [may] does not enlarge or expand the authority of a public agency not authorized to offer [and] or provide a broadband service, a cable television [services and] service, or a public telecommunications [services] service under [~~Title 10, Chapter 18, Municipal Cable Television and Public Telecommunications Services Act~~] Title 10, Chapter 18, Municipal Cable Television and Communications Services Act, to offer or provide a broadband service, a cable television [services and] service, or a public telecommunications [services] service.

1025 Section 18. Section **20A-1-203** is amended to read:

1026 **20A-1-203. Calling and purpose of special elections -- Two-thirds vote limitations.**

1007 (1) Statewide and local special elections may be held for any purpose authorized by law.

1008 (2)

(a) Statewide special elections shall be conducted using the procedure for regular general elections.

1010 (b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

1012 (3) The governor may call a statewide special election by issuing an executive order that designates:

1014 (a) the date for the statewide special election; and

1015 (b) the purpose for the statewide special election.

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- 1016 (4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that
designates:
- 1018 (a) the date for the statewide special election; and
- 1019 (b) the purpose for the statewide special election.
- 1020 (5)
- (a) The legislative body of a local political subdivision may call a local special election only for:
- 1022 (i) a vote on a bond or debt issue;
- 1023 (ii) a vote on a voted local levy authorized by Section 53F-8-402 or 53F-8-301;
- 1024 (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;
- 1025 (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;
- 1026 (v) if required or authorized by federal law, a vote to determine whether Utah's legal boundaries
should be changed;
- 1028 (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;
- 1029 (vii) a vote on a municipality providing a broadband service, a cable television [services] service, or
a public telecommunications [services] service under Section 10-18-204;
- 1032 (viii) a vote to create a new county under Section 17-3-1;
- 1033 (ix) a vote on a special property tax under Section 53F-8-402; or
- 1034 (x) a vote on the incorporation of a municipality in accordance with Section 10-2a-210.
- 1036 (b) The legislative body of a local political subdivision may call a local special election by adopting an
ordinance or resolution that designates:
- 1038 (i) the date for the local special election as authorized by Section 20A-1-204; and
- 1039 (ii) the purpose for the local special election.
- 1040 (c) A local political subdivision may not call a local special election unless the ordinance or resolution
calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all
members of the legislative body, if the local special election is for:
- 1044 (i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);
- 1045 (ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or
- 1046 (iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

1069 **Section 19. Effective date.**

This bill takes effect on May 7, 2025.

2-18-25 7:31 AM