1	LOCAL TAXATION OF UTILITIES
2	LIMITATION - COMPUTATION OF GROSS
3	RECEIPTS
4	2000 GENERAL SESSION
5	STATE OF UTAH
6	Sponsor: John L. Valentine
7	AN ACT RELATING TO THE LOCAL TAXATION OF UTILITIES LIMITATION;
8	PROVIDING DEFINITIONS; CLARIFYING AMOUNTS INCLUDED IN THE CALCULATION
9	OF GROSS REVENUES; AND MAKING TECHNICAL CHANGES.
10	This act affects sections of Utah Code Annotated 1953 as follows:
11	AMENDS:
12	11-26-1, as last amended by Chapter 280, Laws of Utah 1996
13	11-26-3, as enacted by Chapter 104, Laws of Utah 1993
14	Be it enacted by the Legislature of the state of Utah:
15	Section 1. Section 11-26-1 is amended to read:
16	11-26-1. Definitions Ceiling on local charges based on gross revenues of public
17	service provider.
18	(1) [(a)] As used in this [section, "exchange] part:
19	(a) (i) "Exchange access services" means telephone exchange lines or channels, and
20	services provided in connection with them, which are necessary to provide access from the
21	premises of a subscriber to the local switched public telecommunications network of the public
22	utility to effect communication or the transfer of information.
23	[(b)] (ii) "Exchange access services" does not include:
24	[(i)] (A) private line services;
25	[(ii)] (B) long distance toll services;
26	[(iii)] (C) carrier access services;
27	[(iv)] (D) telephonic services that are not regulated by the Utah Public Service

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28	Commission; and
29	[(v)] (E) services that emulate functions available in customer premises equipment.
30	(b) "Local charge" means one or more of the following charges paid by a public service
31	provider to a county or municipality:
32	<u>(i) a tax;</u>
33	(ii) a license;
34	(iii) a fee;
35	(iv) a license fee;
36	(v) a license tax; or
37	(vi) a charge similar to Subsections (1)(b)(i) through (v).
38	(c) "Public service provider" means:
39	(i) a public utility; or
40	(ii) a person or entity engaged in the business of supplying:
41	(A) telephone service; or
42	(B) taxable energy as defined in Section 10-1-303.
43	(2) [Counties and municipalities] A county or a municipality may not impose upon,
44	charge, or collect from a public [utility or other person or entity engaged in the business of
45	supplying telephone service, or taxable energy, any tax, license, fee, license fee, license tax, or
46	similar charge, or any combination of any of these, based upon] service provider local charges:
47	(a) imposed on the basis of the gross revenues of the [utility, person, or entity] public
48	service provider;
49	(b) derived from sales [or], use, or both sales and use of the service within the county or
50	municipality[, which charges total more]; and
51	(c) in a total amount that is greater than 6% of gross revenues.
52	(3) The determination of gross revenues under this section may not include:
53	(a) the sale of gas or electricity as special fuel for motor vehicles; [or]
54	(b) the sale of telephone service provided by a public utility regulated by the Utah Public
55	Service Commission other than:
56	(i) exchange access services;
57	(ii) extended area service;
58	(iii) customer access line charges; and

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59	(iv) any services for which a tax or other charge was being paid pursuant to this section
60	as of January 1, 1992[-]; or
61	(c) a local charge.
62	(4) This section may not be construed to:
63	(a) affect or limit the power of counties or municipalities to impose sales and use taxes
64	under Title 59, Chapter 12, Part 2, The Local Sales and Use Tax Act, or Title 10, Chapter 1, Part
65	3, Municipal Energy Sales and Use Tax Act; or
66	(b) grant any county or municipality the power to impose a [tax, license, fee, license fee,
67	license tax, or similar] local charge not otherwise provided for by law.
68	(5) This section takes precedence over any conflicting provision of law.
69	Section 2. Section 11-26-3 is amended to read:
70	11-26-3. Local charge on certain revenues of public utility or telephone service
71	suppliers Notice and hearing requirements.
72	(1) If a municipality seeks to [levy] impose a new [tax or other] local charge, or to change
73	an existing [tax or other] local charge, on the gross revenues of a public [utilities] utility or other
74	[entities] entity providing telephone service, [which tax or charge] and the local charge would
75	apply to extended area service or to customer access line charges, the municipality shall advertise
76	its intention to do so and hold a public hearing on the proposed ordinance.
77	(2) The advertisement <u>under Subsection (1)</u> shall meet the same size, type, placement, and
78	frequency requirements as provided for notices of property tax certified tax rate increases in
79	Section 59-2-919.

Legislative Review Note as of 2-2-00 5:47 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel