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Municipal Broadband Service Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor:

2

3 **LONG TITLE**

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General Description:

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

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Highlighted Provisions:

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This bill:

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▸ defines terms;

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▸ establishes requirements and limitations in relation to a municipality providing a

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broadband service;

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▸ addresses bonding, reporting, and public disclosure relating to the provision of a

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broadband service by a municipality; and

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▸ makes technical and conforming changes.

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Money Appropriated in this Bill:

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None

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Other Special Clauses:

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None

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Utah Code Sections Affected:

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AMENDS:

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10-8-14, as last amended by Laws of Utah 2019, Chapter 99

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10-18-101, as enacted by Laws of Utah 2001, Chapter 83

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10-18-102, as last amended by Laws of Utah 2016, Chapter 419

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10-18-103, as last amended by Laws of Utah 2013, Chapter 187

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10-18-104, as last amended by Laws of Utah 2014, Chapter 189

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10-18-105, as last amended by Laws of Utah 2016, Chapter 419

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10-18-201, as enacted by Laws of Utah 2001, Chapter 83

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10-18-202, as enacted by Laws of Utah 2001, Chapter 83

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10-18-203, as last amended by Laws of Utah 2023, Chapter 435

29

10-18-204, as last amended by Laws of Utah 2016, Chapter 419

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10-18-301, as enacted by Laws of Utah 2001, Chapter 83

31 **10-18-302**, as last amended by Laws of Utah 2023, Chapter 435
 32 **10-18-303**, as last amended by Laws of Utah 2023, Chapter 435
 33 **10-18-304**, as enacted by Laws of Utah 2001, Chapter 83
 34 **10-18-305**, as enacted by Laws of Utah 2001, Chapter 83
 35 **10-18-306**, as enacted by Laws of Utah 2001, Chapter 83
 36 **11-13-201**, 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

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**
 42 **limits -- Retainage -- Notice of service and agreement.**

43 (1) As used in this section, "[~~public telecommunications-~~] communications service [~~facilities~~]
 44 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
 47 treatment systems, gas works, electric light works, broadband services,
 48 telecommunications lines, cable television lines, public transportation systems, or [~~public telecommunications~~]
 49 communications service facilities;

50 [~~(b)~~] (ii) authorize the construction, maintenance, and operation of the works or
 51 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)~~]
 53 (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
 55 capacity of any works or system [~~listed~~] described in Subsection [~~(2)(a)~~] (2)(a)(i),
 56 not required by the municipality or the municipality's inhabitants, to others beyond
 57 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
 59 Subsection (2)(a)(iv) in relation to:

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

62 (ii) broadband services, cable television services, or public telecommunications
 63 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
 66 waterworks, sewer collection, sewer treatment systems, gas works, electric works,
 67 broadband services, telecommunications lines, cable television lines, public
 68 transportation systems, or [public telecommunications] communications service facilities [-]
 69 is retained or withheld, it shall be retained or withheld and released as provided in
 70 Section 13-8-5.

71 (4)(a) Except as provided in [~~Subsection (4)(b), (6), or (10)~~] Subsection (4)(b), (5), or (9),
 72 a municipality may not sell or deliver the electricity produced or distributed by the
 73 municipality's electric works constructed, maintained, or operated in accordance with
 74 Subsection (2) to a retail customer located beyond the municipality's municipal
 75 boundary.

76 (b) A municipality that [~~provides~~] provided retail electric service to a customer beyond
 77 the municipality's municipal boundary on or before June 15, 2013, may continue to
 78 serve that customer if:

- 79 (i) on or before December 15, 2013, the municipality [~~provides~~] provided the
 80 electrical corporation, as defined in Section 54-2-1, that is obligated by the
 81 municipality's certificate of public convenience and necessity to serve the
 82 customer with an accurate and complete verified written notice [~~described in~~
 83 ~~Subsection (4)(e) that identifies~~] identifying each customer served by the
 84 municipality beyond the municipality's municipal boundary;
 85 (ii) no later than June 15, 2014, the municipality [~~enters~~] entered into a written filing
 86 agreement for the provision of electric service with the electrical corporation; and
 87 (iii) the Public Service Commission [~~approves~~] approved the written filing agreement
 88 in accordance with Section 54-4-40.

89 [~~(e) The municipality shall include in the written notice required in Subsection (4)(b)(i)
 90 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
 93 coordinates, metes and bounds description, or other similar method of meter
 94 location;]~~

95 [~~(iii) the customer's class of service; and]~~

96 [~~(iv) a representation that the customer was receiving service from the municipality
 97 on or before June 15, 2013.]~~

98 [(5) The written filing agreement entered into in accordance with Subsection (4)(b)(ii) shall

99 require the following:]

100 [(a) The municipality shall provide electric service to a customer identified in
101 accordance with Subsection (4)(b)(i) unless the municipality and the electrical
102 corporation subsequently agree in writing that the electrical corporation will provide
103 electric service to the customer.]

104 [(b) If a customer who is located outside the municipal boundary and who is not
105 identified in accordance with Subsection (4)(b)(i) requests service from the
106 municipality after June 15, 2013, the municipality may not provide that customer
107 electric service unless the municipality submits a request to and enters into a written
108 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
110 electric service to an electric customer [~~described in Subsection (5)(b)~~] who is located
111 outside the municipal boundary and who was not identified in accordance with
112 Subsection (4)(b)(i).

113 (b) If a municipality submits a request described in Subsection (5)(a), the electrical
114 corporation shall respond to the request within 60 days.

115 (c) If the electrical corporation agrees to allow the municipality to provide electric
116 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
119 service to the customer described in Subsection [(5)(b)] (5)(a) if the electrical
120 corporation notifies, in writing, the municipality that the electrical corporation has
121 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
124 Service Commission approves the agreement in accordance with Section
125 54-4-40; or

126 (B) for an electrical cooperative that meets the requirements of Subsection
127 54-7-12(7), the governing board of the electrical cooperative approves the
128 agreement.

129 (d) The municipality or the electrical corporation may terminate the agreement for the
130 provision of electric service if the Public Service Commission imposes a condition
131 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

133 Subsection [(6)(e)(ii)] (5)(c)(ii):

134 (a)(i) the municipality shall transfer the electric service customer to the electrical

135 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

138 provided in Section 10-2-421.

139 [(8)] (7)(a) In accordance with Subsection [(8)(b)] (7)(b), the municipality shall establish

140 a reasonable mechanism for resolving potential future complaints by an electric

141 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

144 boundary are at least as favorable as the rates and conditions of service for a

145 similarly situated customer within the municipality's boundary; and

146 (ii) if the municipality provides a general rebate, refund, or other payment to a

147 customer located within the municipality's boundary, that the municipality also

148 provide the same general rebate, refund, or other payment to a similarly situated

149 customer located outside the municipality's boundary.

150 [(9)] (8) The municipality is relieved of any obligation to transfer a customer described in

151 Subsection [(5)(b)] (5)(a) or facility used to serve the customer in accordance with

152 Subsection [(6)(e)(ii)] (5)(c)(ii) if the municipality annexes the property on which the

153 customer is being served.

154 [(10)] (9)(a) A municipality may provide electric service outside of the municipality's

155 municipal boundary to a facility that is solely owned and operated by the

156 municipality for municipal service.

157 (b) A municipality's provision of electric service to a facility that is solely owned and

158 operated by the municipality does not expand the municipality's electric service area.

159 [(11)] (10) Nothing in this section expands or diminishes the ability of a municipality to

160 enter into a wholesale electrical sales contract with another municipality that serves

161 electric customers to sell and deliver wholesale electricity to the other municipality.

162 [(12)] (11) A municipality's actions under this section related to works or systems involving

163 broadband services, public telecommunications services, or cable television services are

164 subject to the requirements of [~~Chapter 18, Municipal Cable Television and Public~~

165 ~~Telecommunications Services Act]~~ Chapter 18, Municipal Cable Television and

166 Communications Services Act.

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

168 **CHAPTER 18. MUNICIPAL CABLE TELEVISION AND COMMUNICATIONS**

169

SERVICES ACT

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

171 ~~[(1) This chapter is known as the "Municipal Cable Television and Public~~
172 ~~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
175 telecommunications services are provided through fair competition consistent with the
176 federal ~~[Telecommunications Act of 1996, Pub. L. 104-104]~~ Communications Act of
177 1934, as amended, in order to provide the widest possible diversity of information and
178 news sources to the general public;

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

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

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

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

189 ~~[(f)]~~ (6) ensure that when a municipality provides to ~~[its]~~ the municipality's inhabitants
190 broadband services, cable television services, public telecommunications services, or [
191 both] any combination of those services, and competes with private providers whose
192 activities are regulated by the municipality, the municipality does not discriminate
193 against the competing providers of the same services.

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

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

196 As used in this chapter:

197 (1)(a) "Broadband service" means a mass-market retail or wholesale service that
198 provides, via wire or radio, the capability to transmit data to and receive data from all

199 or substantially all Internet endpoints, including any capabilities that are incidental to
 200 and enable the operation of the service.

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

202 [(1)] (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
 210 capitalized in accordance with generally accepted accounting principles.

211 (4) "Communications service facility" means a facility described in Subsection
 212 10-18-105(2).

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

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

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

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

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
 229 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
 238 services or other functions that is not directly identified with a single service or
 239 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)(a) "Public telecommunications service" means the two-way transmission of
 256 signs, signals, writing, images, sounds, messages, data, or other information of any
 257 nature by wire, radio, lightwaves, or other electromagnetic means offered to the
 258 public generally.

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

260 ~~[(10) "Public telecommunications service facilities" means a facility described in~~
 261 ~~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,
 269 cable television service, or public telecommunications service, the immunity from
 270 antitrust liability afforded to political subdivisions of the state under Section 76-10-3109
 271 does not apply to the municipality providing those services.

272 (2) A municipality that provides a broadband service, cable television service, or a public
 273 telecommunications service is subject to applicable antitrust liabilities under the federal
 274 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
 278 legislative body of a municipality authorized the municipality to offer or provide a a
 279 cable television [services] service or public telecommunications [~~services~~] service,
 280 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
 284 television service or public telecommunications service authorized by the legislative
 285 body of a municipality on or after [~~the sooner of~~] March 1 [~~or the effective date of~~
 286 ~~this chapter~~], 2001.

287 (2)(a) If, before March 1, 2025, the legislative body of a municipality authorized the
 288 municipality to offer or provide a broadband service, each authorized broadband
 289 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
 293 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
 296 service entered into by a municipality before [~~the sooner of~~] March 1 [~~or the effective~~
 297 ~~date of this chapter~~], 2001, or any contract for broadband service entered into by a
 298 municipality before March 1, 2025:

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

- 301 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
- 306 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
- 315 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
- 319 (b) impair any security interest granted by a municipality as collateral for the
- 320 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~~
- 322 ~~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,~~
- 324 ~~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~~
- 328 ~~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
 338 a facility or equipment that the municipality uses to provide a cable television service
 339 or public telecommunications service is exempt from certain provisions of this
 340 chapter, as described in Subsection (5), in relation to the specific service funded by
 341 that bond resolution.

342 (b) A municipality that, on or before January 1, 2025, enacts a bond resolution to fund a
 343 facility or equipment that the municipality uses to provide a broadband service is
 344 exempt from certain provisions of this chapter, as described in Subsection (5), in
 345 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
 347 public telecommunications service for at least three consecutive years, is exempt
 348 from certain provisions of this chapter, as described in Subsection (5), in relation to
 349 the specific service operated during that time period.

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

354 (5) In accordance with Subsection (4), a municipality described in Subsection (4) is exempt
 355 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~~
 362 ~~December 31, 2001, a municipality that operated a cable television service as of January~~
 363 ~~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
 367 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
 377 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:
 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
 382 private provider to use the [~~facilities~~] facility in connection with a private provider
 383 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
 393 (3)(c) if the municipal entity purchases, leases, constructs, or equips [~~facilities~~] a
 394 facility that the municipal entity by written contract leases, sells capacity in, or grants
 395 other similar rights to a private provider to use the [~~facilities~~] facility in connection
 396 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
 401 described in Subsection (3)(b), comply with the obligations imposed on a
 402 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
- 406 Section 10-18-204 with respect to the provision of [~~public telecommunications~~] a
- 407 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**
- 410 **telecommunications services.**
- 411 (1) Except as provided in this chapter, a municipality may not:
- 412 (a) provide to one or more subscribers:
- 413 (i) a broadband service;
- 414 [~~(i)~~] (ii) a cable television service; or
- 415 [~~(ii)~~] (iii) a public telecommunications service; or
- 416 (b) for the purpose of providing a broadband service, a cable television service, or a
- 417 public telecommunications service to one or more subscribers, purchase, lease,
- 418 construct, maintain, or operate any facility.
- 419 (2) For purposes of this chapter, a municipality provides a broadband service, cable
- 420 television service, or public telecommunications service if the municipality provides the
- 421 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
- 428 Cooperation Act, to which the municipality is a party;
- 429 (ii) a partnership; or
- 430 [~~(ii)~~] (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**
- 434 **television, or public telecommunications services.**
- 435 Before a municipality may engage or offer to engage in an activity described in
- 436 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
439 required by Subsection (1), approve the hiring of a feasibility consultant to conduct a
440 feasibility study in accordance with Section 10-18-203;
- 441 (3) determine whether under the feasibility study conducted under Section 10-18-203, the
442 average annual revenues under Subsection 10-18-203(2)(f) exceed the average annual
443 costs under Subsection 10-18-203(2)(e) by at least the amount necessary to meet the
444 bond obligations of any bonds issued to fund the proposed broadband service, cable
445 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
454 10-18-203; and
- 455 (5) after holding the public hearings required by Section 10-18-203, if the legislative body
456 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**
459 **telecommunications services -- Public hearings -- Notice.**
- 460 (1) If a feasibility consultant is hired under Section 10-18-202, the legislative body of the
461 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
464 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~~
 472 ~~subscribers, whether the municipality providing cable television services in the~~
 473 ~~manner proposed by the municipality will hinder or advance competition for cable~~
 474 ~~television services in the municipality; or]~~
 475 ~~[(ii) if the municipality is proposing to provide public telecommunications services to~~
 476 ~~subscribers, whether the municipality providing public telecommunications~~
 477 ~~services in the manner proposed by the municipality will hinder or advance~~
 478 ~~competition for public telecommunications services in the municipality;]~~
 479 (a) whether the municipality providing a broadband service, a cable television service, or
 480 a public telecommunications service in the manner proposed by the municipality will
 481 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
 500 years, of a full-cost accounting for a municipality to purchase, lease, construct,
 501 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 (f) the projections~~[-at]~~ , from the time of the feasibility study~~[-and]~~ , for the next ~~[five]~~ 10
 506 years of the revenues to be generated from the proposed:
- 507 (i) broadband service;
- 508 ~~[(i)]~~ (ii) cable television ~~[services]~~ service; or
- 509 ~~[(ii)]~~ (iii) public telecommunications ~~[services]~~ service.
- 510 (3) For purposes of the financial projections required under Subsections (2)(e) and (f), the
 511 feasibility consultant shall assume that the municipality will price the proposed
 512 broadband service, cable television ~~[services]~~ service, or public telecommunications [
 513 ~~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
 515 10-18-202(3), the legislative body, at the next regular meeting after the legislative body
 516 receives the results of the feasibility study, shall schedule at least two public hearings to
 517 be held:
- 518 (a) within ~~[60]~~ 90 days after the day of the meeting at which the public hearings are
 519 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
 526 study.
- 527 (5) The municipality shall provide notice of the public hearings required under Subsection
 528 (4) for the municipality, as a class A notice under Section 63G-30-102, for at least three
 529 weeks before the day on which the first public hearing required under Subsection (4) is
 530 held.

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

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

- 533 (1)(a)~~[(i)]~~ A legislative body ~~[-]~~of a municipality may, ~~[-]~~by a majority vote, call an
 534 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.
- 538 ~~[(ii)]~~ (b) A municipal legislative body that, before July 1, 2016, approves the provision of

539 public telecommunications service facilities may, by a majority vote, call an election
 540 on whether the municipality shall provide proposed public telecommunications
 541 service facilities.

542 ~~[(b)]~~ (c) If under Subsection (1)(a) the legislative body calls an election, the election shall
 543 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
 546 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)~~
 549 shall include with any other information required by law:

550 (A) a summary of the broadband service, cable television ~~[services] service,~~ or
 551 public telecommunications ~~[services] service~~ that the legislative body of the
 552 municipality proposes to provide to subscribers residing within the boundaries
 553 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
 556 and copying;~~and]~~

557 (D) the location in the municipality where the feasibility study may be inspected
 558 or copied~~[-]~~ ; and

559 (E) a hyperlink on the municipality's website where the feasibility study may be
 560 accessed.

561 (ii) The notice of an election called under Subsection ~~[(1)(a)(ii)]~~ (1)(b) shall include a
 562 summary prepared by the municipality describing the proposed~~[public]~~
 563 communications service ~~[facilities]~~ facility.

564 ~~[(d)]~~ (e)(i) For an election called under Subsection ~~[(1)(a)(i)]~~ (1)(a), the ballot for ~~[-]the~~ election
 565 shall pose the question substantially as follows:

566 "Shall the [name of the municipality] provide [broadband service, cable television
 567 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
 569 pose the question substantially as follows:

570 "Shall the [name of the municipality] provide [~~public telecommunications]~~ a
 571 communications service ~~[facilities]~~ facility within [name of the municipality] by [brief
 572 description of the method or means and financing terms, including total principal and interest

573 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

575 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

577 legislative body's action to have the municipality ~~[-]~~over which the legislative body

578 presides~~[-]~~ provide a broadband service, cable television ~~[services]~~ service, or public

579 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

581 and do not:

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

583 action; or

584 (ii) limit the municipality that called the election from taking any action authorized

585 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

587 from the applicable requirements of this ~~[Title 10, Chapter 18, Municipal Cable~~

588 ~~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**

591 **telecommunications services.**

592 (1) A municipality that provides a broadband service, a cable television service, or a public

593 telecommunications service under this chapter:

594 (a) shall establish ~~[an]~~ separate enterprise ~~[fund]~~ funds to account for the municipality's

595 operations of a broadband service, cable television service, or public

596 telecommunications service;

597 (b) may fund the services through:

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

599 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

602 broadband services, cable television services, and ~~[its-]~~public telecommunications

603 services in a single enterprise fund under Chapter 6, Uniform Fiscal Procedures Act

604 for Utah Cities;

605 ~~[(e)]~~ (d) shall, consistent with the requirements of Section 10-6-135, adopt separate

606 operating and capital budgets for the municipality's:

- 607 (i) broadband services;
- 608 ~~[(+)]~~ (ii) cable television services; and
- 609 ~~[(+)]~~ (iii) public telecommunications services;
- 610 ~~[(+)]~~ (e) may not transfer any appropriation or other balance in any enterprise fund
- 611 established by the municipality under this section to another enterprise fund;~~[-and]~~
- 612 ~~[(+)]~~ (f) may not transfer any appropriation or other balance in any other enterprise fund
- 613 established by the municipality under Chapter 6, Uniform Fiscal Procedures Act for
- 614 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
- 616 a broadband service, cable television service, or public telecommunications service,
- 617 and the municipality's role as a regulator over private providers that offer a service in
- 618 competition with the service offered by the municipality, including with respect to
- 619 the personnel, real property, operational capabilities, and other resources between
- 620 these separate functions; and
- 621 (h) may not share any non-public information between employees or contractors
- 622 responsible for executing the municipality's role as a competitive provider of a
- 623 broadband service, cable television service, or public telecommunications service,
- 624 and employees or contractors responsible for executing the municipality's role as a
- 625 regulator over private providers that offer a service in competition with a service
- 626 offered by the municipality.
- 627 (2) The restrictions on transfers described in Subsections ~~[(+)]~~~~[(+)]~~ (1)(e) and ~~[(+)]~~ (f) do not
- 628 apply to transfers made by a municipality between other enterprise funds established by
- 629 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
- 633 body of a municipality may by resolution determine to issue one or more revenue bonds
- 634 or general obligation bonds to finance the capital costs for facilities necessary to provide
- 635 to subscribers:
- 636 (a) a broadband service;
- 637 ~~[(+)]~~ (b) a cable television service; or
- 638 ~~[(+)]~~ (c) a public telecommunications service.
- 639 (2) The resolution described in Subsection (1) shall:
- 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) a broadband service, if the revenue bond is issued to finance a facility for that
- 645 broadband service;
- 646 ~~[(A)] (B) a cable television [services with respect to revenue bonds] service, if the~~
- 647 revenue bond is issued to finance [facilities] a facility for [the municipality's] that
- 648 cable television [services] service; and
- 649 ~~[(B)] (C) a public telecommunications [services with respect to revenue bonds]~~
- 650 service, if the revenue bond is issued to finance [facilities] a facility for [the
- 651 municipality's] that public telecommunications [services] service; and
- 652 (ii) notwithstanding Subsection (3)(b) and Subsection ~~[10-18-303(3)(a)]~~
- 653 10-18-303(5)(a), and subject to the requirements of Subsection (5), from revenues
- 654 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~~
- 656 Subsections (4) and (5), the revenue bond is approved by the registered voters
- 657 in an election held:]
- 658 ~~[(F) except as provided in Subsection (3)(a)(ii)(A)(II), pursuant to the~~
- 659 provisions of Title 11, Chapter 14, Local Government Bonding Act, that
- 660 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~~
- 663 the revenue bond; and]
- 664 ~~[(C) the municipality or municipalities annually appropriate the revenues~~
- 665 described in this Subsection (3)(a)(ii) to secure and pay the revenue bond
- 666 issued under this section.]
- 667 (b) Except as provided in Subsection ~~[(3)(a)(ii)]~~ (5), a municipality may not pay the
- 668 origination, financing, or other carrying costs associated with ~~[the-]~~one or more
- 669 revenue bonds issued under this section from the ~~[town or city, respectively,-]~~
- 670 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
- 672 under this section may only be issued after the legislative body of a municipality obtains
- 673 the approval of registered voters at an election held in accordance with Title 11, Chapter
- 674 14, Local Government Bonding Act.

- 675 (5) A municipality may only issue a revenue bond secured by revenues generated under
 676 Title 59, Chapter 12, Sales and Use Tax Act, if:
- 677 (a) notwithstanding Subsection 11-14-201(3) and except as provided in Subsection (6),
 678 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,
 680 Chapter 14, Local Government Bonding Act, that govern bond elections; and
 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
 683 bond; and
- 684 (c) the municipality annually appropriates the revenues described in this Subsection (5)
 685 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
 687 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
 691 municipal entity that issues revenue bonds, or to a municipality that is a member of a
 692 municipal entity that issues revenue bonds, if:]
- 693 [(i) on or before March 2, 2004, the municipality that is issuing revenue bonds or that
 694 is a member of a municipal entity that is issuing revenue bonds has published the
 695 first notice described in Subsection (4)(b)(iii);]
- 696 [(ii) on or before April 15, 2004, the municipality that is issuing revenue bonds or
 697 that is a member of a municipal entity that is issuing revenue bonds makes the
 698 decision to pledge the revenues described in Subsection (3)(a)(ii) as security for
 699 the revenue bonds described in this Subsection (4)(b)(ii);]
- 700 [(iii)(A) the municipality that is issuing the revenue bonds or the municipality
 701 that is a member of the municipal entity that is issuing the revenue bonds has
 702 held a public hearing for which public notice was given by publication of the
 703 notice for the municipality, as a class A notice under Section 63G-30-102, for
 704 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
 707 Bonding Act;]
- 708 [(II) the purpose for the bonds to be issued;]

709 [(III) the maximum amount of the revenues described in Subsection (3)(a)(ii)
710 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:]
714 [(A) adopts a final financing plan; and]
715 [(B) in accordance with Title 63G, Chapter 2, Government Records Access and
716 Management Act, makes available to the public at the time the municipal entity
717 adopts the final financing plan:]
718 [(I) the final financing plan; and]
719 [(H) all contracts entered into by the municipal entity, except as protected by
720 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
722 (4)(b)(iv):]
723 [(A) not less than 30 calendar days after the municipal entity complies with
724 Subsection (4)(b)(iv)(B), holds a final public hearing;]
725 [(B) provides notice, at the time the municipality schedules the final public
726 hearing, to any person who has provided to the municipality a written request
727 for notice; and]
728 [(C) makes all reasonable efforts to provide fair opportunity for oral testimony by
729 all interested parties; and]
730 [(vi) except with respect to a municipality that issued bonds prior to March 1, 2004,
731 not more than 50% of the average annual debt service of all revenue bonds
732 described in this section to provide service throughout the municipality or
733 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
735 (3)(a)(ii)(A)] described in Subsections (4) and (5) do not apply to a municipality that
736 issues a revenue [bonds] bond described in Subsection (5), if:
737 (a)(i) the municipality that is issuing the revenue [~~bonds has held~~] bond holds a public
738 hearing for which public notice was given by publication of the notice for the
739 municipality, as a class A notice under Section 63G-30-102, for 14 days before
740 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

- 743 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)
- 746 that will be pledged in any fiscal year;
- 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) [~~except with respect to a municipality that issued bonds prior to March 1, 2004,~~] not
- 750 more than 50% of the average annual debt service of all revenue bonds described in
- 751 this section to provide service throughout the municipality or municipal entity may
- 752 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
- 754 grant any undue or unreasonable preference or advantage to [~~itself~~] the municipality or to
- 755 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
- 760 general public all matters material to the municipality's issuance of a bond to fund the
- 761 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.

770 Section 13. Section **10-18-303** is amended to read:

771 **10-18-303 . General operating limitations -- Notice of change to price list.**

772 [A municipality that provides a cable television service or a public

773 telecommunications service under this chapter is subject to the operating limitations of this

774 section.]

- 775 (1) A municipality that provides a broadband service, a cable television service, or a public
- 776 telecommunications service under this chapter is subject to the operating limitations of

777 this section.

778 (2) A municipality that provides a broadband service shall comply with:

779 (a) the Communications Act of 1934, as amended; and

780 (b) the regulations issued by the Federal Communications Commission under the
781 Communications Act of 1934, as amended.

782 [(+)] (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
787 with:

788 (a) the [Telecommunications Act of 1996, Pub. L. 104-104] Communications Act of
789 1934, as amended;

790 (b) the regulations issued by the Federal Communications Commission under the [
791 Telecommunications Act of 1996, Pub. L. 104-104] Communications Act of 1934, as
792 amended;

793 (c) Section 54-8b-2.2 relating to:

794 (i) the interconnection of essential facilities; and

795 (ii) the purchase and sale of essential services; and

796 (d) the rules made by the Public Service Commission of Utah under Section 54-8b-2.2.

797 [(3)] (5) A municipality may not cross subsidize [its] a broadband service, cable television [
798 services] service, or [its]-public telecommunications [services] service with:

799 (a) tax dollars;

800 (b) income from other municipal or utility services;

801 (c) below-market rate loans from the municipality; or

802 (d) any other means.

803 [(4)] (6)(a) A municipality may not make or grant any undue or unreasonable preference
804 or advantage to [itself] the municipality or to any private provider of:

805 (i) a broadband service;

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

807 [(+)] (iii) a public telecommunications [services] service.

808 (b) A municipality shall apply, without discrimination as to [itself and to any] the
809 municipality or a private provider, the municipality's ordinances, rules, [and]-policies,
810 and practices, including those relating to:

- 811 (i) obligation to serve;
- 812 (ii) access to and use of public rights of way;
- 813 (iii) access to and use of municipally owned or controlled conduit, towers, and utility
- 814 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
- 820 for broadband deployment.
- 821 (c) Subsections [(4)(a)] (6)(a) and (b) do not supersede the exception for a rural
- 822 telephone company in [Section 251 of the Telecommunications Act of 1996, Pub. L.
- 823 ~~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
- 825 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
- 827 that would be applicable to a similarly situated private provider of the same services,
- 828 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
- 835 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]
- 840 service, or public telecommunications [services] service shall establish and maintain a
- 841 comprehensive price list of all broadband services, cable television services, or public
- 842 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

- 845 broadband service, cable television service, or public telecommunications service
846 offered by the municipality;
- 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
852 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
854 five days; and
855 (ii) to any other persons requesting notification of any changes to the municipality's
856 price list.
- 857 (d) A municipality may not offer a broadband service, a cable television service, or a
858 public telecommunications service except in accordance with the prices, terms, and
859 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
861 television [services] service, or public telecommunications [services] service to a
862 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
868 subject to legislative audit to verify the municipality's compliance with the
869 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
874 broadband services, cable television services, and public telecommunications
875 services.
- 876 (b) The report described in Subsection (11)(a) shall include, for each broadband service,
877 cable television service, or public telecommunications service provided by the
878 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
881 municipality's network;
882 (iii) the number of subscribers to the service, including net additions or losses, for the
883 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
887 the facilities necessary to provide the service; and
888 (B) the municipality's expenditure of funds for labor, financing, and administering
889 the service;
890 (vi) the projected growth in demand in the municipality for the service for the next 10
891 years;
892 (vii) the projections, from the time of the report for the next 10 years, of a full-cost
893 accounting for a municipality to purchase, lease, construct, maintain, or operate
894 the facilities necessary to provide the service;
895 (viii) the projections, from the time of the report for the next 10 years, of the
896 revenues to be generated from the service;
897 (ix) with respect to the information described in Subsections (11)(b)(iv), (v), (vi),
898 (vii), and (viii), a comparison to the results of the feasibility study for the service
899 adopted by the municipality under Section 10-18-202;
900 (x) a determination as to whether the revenues described in Subsection (11)(b)(iv)
901 exceed the costs described in Subsection (11)(b)(v) by the amount necessary to
902 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
904 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
 914 October 1 of each year with a summary of the report findings that is no longer than
 915 one page in length.
- 916 (d) At the next regular meeting after the legislative body of the municipality receives the
 917 report, the legislative body shall schedule a public hearing to be held within 30 days
 918 after the day of the meeting at which the public hearing is scheduled, for the purpose
 919 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
 923 (11)(d) for the municipality, as a class A notice under Section 63G-30-102, for at
 924 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
 926 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
 929 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
 931 Telecommunications Service Support Fund established in Section 54-8b-15.

932 Section 14. Section **10-18-304** is amended to read:

933 **10-18-304 . Eminent domain.**

934 A municipality may not exercise ~~[its]~~ the municipality's power of eminent domain to
 935 condemn the plant ~~[and]~~ or equipment of a private provider for the purpose of providing to a
 936 subscriber:

937 (1) a broadband service;

938 ~~[(4)]~~ (2) a cable television service; or

939 ~~[(2)]~~ (3) a public telecommunications service.

940 Section 15. Section **10-18-305** is amended to read:

941 **10-18-305 . Quality of service standards.**

942 (1) A municipality that provides a broadband service, a cable television service, or a public
 943 telecommunications service shall adopt an ordinance governing the quality of service the
 944 municipality shall provide to ~~[its]~~ the municipality's subscribers.

945 (2) The legislative body of the municipality shall ensure that the ordinance ~~[required by]~~
 946 described in Subsection (1)~~[-shall]:~~

- 947 (a) ~~[be]~~ is competitively neutral; and
- 948 (b) ~~[contain]~~ contains standards that are substantially similar to the standards imposed on
- 949 private providers operating within the geographic boundaries of the municipality
- 950 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
- 953 1934, as amended;
- 954 (iii) Title 54, Public Utilities;
- 955 (iv) regulations issued by the Federal Communications Commission under the
- 956 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
- 958 Utilities.

959 Section 16. Section **10-18-306** is amended to read:

960 **10-18-306 . Enforcement and appeal.**

- 961 (1) Before a person that is or is likely to have a substantial interest affected by a
- 962 municipality's violation of this chapter may file an action in district court for violation of
- 963 this chapter, that person shall file a written complaint with the municipality in
- 964 accordance with this section.
- 965 (2)(a) A municipality that provides a broadband service, a cable television service, or a
- 966 public telecommunications service shall enact an ordinance establishing a procedure
- 967 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
- 975 boundaries of the municipality;
- 976 (ii) establish an expedited process that requires, within 45 days after the date the
- 977 complaint is filed, the municipality to:
- 978 (A) ~~[that]~~ hold a hearing ~~[be held]~~ on the complaint, unless the parties to the
- 979 proceeding waive the requirement of a hearing; and
- 980 (B) ~~[the issuance of]~~ issue a final decision on the complaint; and

981 (iii) provide that failure to render a decision within the time [allotted] required shall
 982 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
 984 for a de novo proceeding.

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

986 **11-13-201 . Joint exercise of power, privilege, or authority by public agencies --**
 987 **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
 989 public agency may be exercised and enjoyed jointly with any other Utah public
 990 agency having the same power, privilege, or authority, in a manner consistent with
 991 the provisions of this chapter, and jointly with any out-of-state public agency to the
 992 extent that the laws governing the out-of-state public agency permit such joint
 993 exercise or enjoyment.

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

997 (2) This chapter [may] does not enlarge or expand the authority of a public agency not
 998 authorized to offer [~~and~~] or provide a broadband service, a cable television [services and]
 999 service, or a public telecommunications [services] service under [~~Title 10, Chapter 18,~~
 1000 ~~Municipal Cable Television and Public Telecommunications Services Act~~] Title 10,
 1001 Chapter 18, Municipal Cable Television and Communications Services Act, to offer or
 1002 provide a broadband service, a cable television [services and] service, or a public
 1003 telecommunications [services] service.

1004 Section 18. Section **20A-1-203** is amended to read:

1005 **20A-1-203 . Calling and purpose of special elections -- Two-thirds vote**
 1006 **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
 1009 general elections.

1010 (b) Except as otherwise provided in this title, local special elections shall be conducted
 1011 using the procedures for regular municipal elections.

1012 (3) The governor may call a statewide special election by issuing an executive order that
 1013 designates:

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

- 1015 (b) the purpose for the statewide special election.
- 1016 (4) The Legislature may call a statewide special election by passing a joint or concurrent
1017 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
1021 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
1027 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 [
1030 ~~services~~] service, or a public telecommunications [~~services~~] service under Section
1031 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
1035 10-2a-210.
- 1036 (b) The legislative body of a local political subdivision may call a local special election
1037 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
1041 or resolution calling a local special election under Subsection (5)(b) is adopted by a
1042 two-thirds majority of all members of the legislative body, if the local special
1043 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
1047 (5)(a)(vi).

1048 Section 19. **Effective Date.**

1049 This bill takes effect on May 7, 2025.