AN ACT
RELATING TO POWERS OF MUNICIPAL CORPORATIONS; AMENDING CHAPTER 3, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-346, IDAHO CODE, TO PROVIDE FOR CITY AUTHORITY TO ESTABLISH PROVISIONS REGARDING A CITY COMMUNICATIONS SERVICE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 3, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-346, Idaho Code, and to read as follows:

50-346. COMMUNICATIONS SERVICE. (1) A city shall have the authority to establish, create, develop, acquire, finance, construct, equip, lease, own, maintain, and operate a communications network and offer communications service within the corporate limits of the city.
(2) In offering communications service, a city-owned communications service provider:
(a) Shall establish a separate enterprise fund for the provision of communications service and shall use the enterprise fund to separately account for revenues, expenses, property, and source of investment monies associated with the provision of communications service. The city shall not subsidize the communications enterprise fund and the provision of communications service with funds, the provision of services, goods, personnel, in-kind exchanges, or other things of value from any other noncommunications service, operation, or other revenue source, including but not limited to any personnel, funds, or revenue generated from electric, gas, water, sewer, or garbage. The city shall not price any communications service below the cost of providing the service and shall annually remit to the general fund of the city an amount equivalent to all local taxes or fees a private communications service provider would be required to pay the city and the county in which the city is located.
(b) Shall not require any person, including residents of a particular development, to use or subscribe to any communications service provided by the city-owned communications service provider or exercise its power or authority in any area, including zoning or land-use regulation, to withhold or delay the provision of communications service by private communications providers; shall not use city resources that are not allocated for cost-accounting purposes to the city-owned communications service to promote city-owned communications service in competition with private service providers; and shall not require city employees, officers, or contractors to purchase city-owned communications services.
(c) Shall provide nondiscriminatory access to private communications service providers on a first-come, first-served basis to rights-of-way, poles, or conduits owned, leased, or operated by the city, unless the facilities have insufficient capacity for the access and additional capacity cannot reasonably be added to the facilities. For purposes of this paragraph, "nondiscriminatory access" means that, at a minimum, access shall be granted on the same terms and conditions as that given to a city-owned communications service provider.

(d) Shall demonstrate compliance with the provisions of this section by commissioning an independent audit in accordance with generally accepted accounting principles that reflects the full cost of providing the communications service, including all direct and indirect costs.

(e) Shall not directly or indirectly utilize the Idaho regional optical network as part of its communications network to provide city-owned communications service.

(f) Shall not acquire by eminent domain the facilities or other property of any other communications service provider to offer communications services.

(3) In funding the construction of a communications network, a city may not fund such construction of a communications network pursuant to the local improvement district code, chapter 17, title 50, Idaho Code.

(4) As used in the section:

(a) "City-owned communications service provider" means a city that provides communications service using a communications network.

(b) "Communications network" means a wired or wireless network for the provision of communications service.

(c) "Communications service" means the provision of cable, video programming, telecommunications, broadband, data, data transport, data transmission, or high-speed internet access service for a fee, regardless of the technology used to deliver the service.