Chapter 13
Interlocal Cooperation Act

Part 1
General Provisions

11-13-101 Title.

This chapter is known as the "Interlocal Cooperation Act."

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-102 Purpose of chapter.

The purpose of this chapter is:

(1) to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and under forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

(2) to provide the benefit of economy of scale, economic development, and utilization of natural resources for the overall promotion of the general welfare of the state.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-103 Definitions.

As used in this chapter:

(1)

(a) "Additional project capacity" means electric generating capacity provided by a generating unit that first produces electricity on or after May 6, 2002, and that is constructed or installed at or adjacent to the site of a project that first produced electricity before May 6, 2002, regardless of whether:

(i) the owners of the new generating unit are the same as or different from the owner of the project; and

(ii) the purchasers of electricity from the new generating unit are the same as or different from the purchasers of electricity from the project.

(b) "Additional project capacity" does not mean or include replacement project capacity.

(2) "Board" means the Permanent Community Impact Fund Board created by Section 35A-8-304, and its successors.

(3) "Candidate" means one or more of:

(a) the state;

(b) a county, municipality, school district, special district, special service district, or other political subdivision of the state; and

(c) a prosecution district.

(4) "Commercial project entity" means a project entity, defined in Subsection (18), that:

(a) has no taxing authority; and

(b) is not supported in whole or in part by and does not expend or disburse tax revenues.

(5) "Direct impacts" means an increase in the need for public facilities or services that is attributable to the project or facilities providing additional project capacity, except impacts resulting from the construction or operation of a facility that is:
(a) owned by an owner other than the owner of the project or of the facilities providing additional project capacity; and
(b) used to furnish fuel, construction, or operation materials for use in the project.
(6) "Electric interlocal entity" means an interlocal entity described in Subsection 11-13-203(3).
(7) "Energy services interlocal entity" means an interlocal entity that is described in Subsection 11-13-203(4).
(8)
(a) "Estimated electric requirements," when used with respect to a qualified energy services interlocal entity, includes any of the following that meets the requirements of Subsection (8)(b):
(i) generation capacity;
(ii) generation output; or
(iii) an electric energy production facility.
(b) An item listed in Subsection (8)(a) is included in "estimated electric requirements" if it is needed by the qualified energy services interlocal entity to perform the qualified energy services interlocal entity's contractual or legal obligations to any of its members.
(9)
(a) "Facilities providing replacement project capacity" means facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed to provide replacement project capacity.
(b) "Facilities providing replacement project capacity" includes facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed:
(i) to support and facilitate the construction, reconstruction, conversion, repowering, installation, financing, operation, management, or use of replacement project capacity; or
(ii) for the distribution of power generated from existing capacity or replacement project capacity to facilities located on real property in which the project entity that owns the project has an ownership, leasehold, right-of-way, or permitted interest.
(10) "Governing authority" means a governing board or joint administrator.
(11)
(a) "Governing board" means the body established in reliance on the authority provided under Subsection 11-13-206(1)(b) to govern an interlocal entity.
(b) "Governing board" includes a board of directors described in an agreement, as amended, that creates a project entity.
(c) "Governing board" does not include a board as defined in Subsection (2).
(12) "Interlocal entity" means:
(a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal entity; or
(b) a separate legal or administrative entity created under Section 11-13-205.
(13) "Joint administrator" means an administrator or joint board described in Section 11-13-207 to administer a joint or cooperative undertaking.
(14) "Joint or cooperative undertaking" means an undertaking described in Section 11-13-207 that is not conducted by an interlocal entity.
(15) "Member" means a public agency that, with another public agency, creates an interlocal entity under Section 11-13-203.

(16) "Out-of-state public agency" means a public agency as defined in Subsection (19)(c), (d), or (e).

(17)

(a) "Project":

(i) means an electric generation and transmission facility owned by a Utah interlocal entity or an electric interlocal entity; and

(ii) includes fuel facilities, fuel production facilities, fuel transportation facilities, energy storage facilities, or water facilities that are:

(A) owned by that Utah interlocal entity or electric interlocal entity; and

(B) required for the generation and transmission facility.

(b) "Project" includes a project entity's ownership interest in:

(i) facilities that provide additional project capacity;

(ii) facilities providing replacement project capacity;

(iii) additional generating, transmission, fuel, fuel transportation, water, or other facilities added to a project; and

(iv) a Utah interlocal energy hub, as defined in Section 11-13-602.

(18) "Project entity" means a Utah interlocal entity or an electric interlocal entity that owns a project as defined in this section.

(19) "Public agency" means:

(a) a city, town, county, school district, special district, special service district, an interlocal entity, or other political subdivision of the state;

(b) the state or any department, division, or agency of the state;

(c) any agency of the United States;

(d) any political subdivision or agency of another state or the District of Columbia including any interlocal cooperation or joint powers agency formed under the authority of the law of the other state or the District of Columbia; or

(e) any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(20) "Qualified energy services interlocal entity" means an energy services interlocal entity that at the time that the energy services interlocal entity acquires its interest in facilities providing additional project capacity has at least five members that are Utah public agencies.

(21) "Replacement project capacity" means electric generating capacity or transmission capacity that:

(a) replaces all or a portion of the existing electric generating or transmission capacity of a project; and

(b) is provided by a facility that is on, adjacent to, in proximity to, or interconnected with the site of a project, regardless of whether:

(i) the capacity replacing existing capacity is less than or exceeds the generating or transmission capacity of the project existing before installation of the capacity replacing existing capacity;

(ii) the capacity replacing existing capacity is owned by the project entity that is the owner of the project, a segment established by the project entity, or a person with whom the project entity or a segment established by the project entity has contracted; or

(iii) the facility that provides the capacity replacing existing capacity is constructed, reconstructed, converted, repowered, acquired, leased, used, or installed before or after any actual or anticipated reduction or modification to existing capacity of the project.

(22) "Transportation reinvestment zone" means an area created by two or more public agencies by interlocal agreement to capture increased property or sales tax revenue generated by a transportation infrastructure project as described in Section 11-13-227.
(23) "Utah interlocal entity":
(a) means an interlocal entity described in Subsection 11-13-203(2); and
(b) includes a separate legal or administrative entity created under Laws of Utah 1977, Chapter 47, Section 3, as amended.
(24) "Utah public agency" means a public agency under Subsection (19)(a) or (b).

Amended by Chapter 16, 2023 General Session

Part 2
Public Agencies' Joint Exercise of Powers

11-13-201 Joint exercise of power, privilege, or authority by public agencies -- Relationship to the Municipal Cable Television and Public Telecommunications Services Act.
(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.
(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.
(2) This chapter may not enlarge or expand the authority of a public agency not authorized to offer and provide cable television services and public telecommunications services under Title 10, Chapter 18, Municipal Cable Television and Public Telecommunications Services Act, to offer or provide cable television services and public telecommunications services.

Amended by Chapter 265, 2015 General Session

11-13-202 Agreements for joint or cooperative undertaking, for providing or exchanging services, or for law enforcement services -- Effective date of agreement -- Public agencies may restrict their authority or exempt each other regarding permits and fees.
(1) Any two or more public agencies may enter into an agreement with one another under this chapter:
(a) for joint or cooperative action;
(b) to provide services that they are each authorized by statute to provide;
(c) to exchange services that they are each authorized by statute to provide;
(d) for a public agency to provide law enforcement services to one or more other public agencies, if the public agency providing law enforcement services under the interlocal agreement is authorized by law to provide those services, or to provide joint or cooperative law enforcement services between or among public agencies that are each authorized by law to provide those services;
(e) to create a transportation reinvestment zone as defined in Section 11-13-103; or

(f) to do anything else that they are each authorized by statute to do.

(2) An agreement under Subsection (1) does not take effect until each public agency that is a party to the agreement approves the agreement, as provided in Section 11-13-202.5.

(3)

(a) In an agreement under Subsection (1), a public agency that is a party to the agreement may agree:

(i) to restrict its authority to issue permits to or assess fees from another public agency that is a party to the agreement; and

(ii) to exempt another public agency that is a party to the agreement from permit or fee requirements.

(b) A provision in an agreement under Subsection (1) whereby the parties agree as provided in Subsection (3)(a) is subject to all remedies provided by law and in the agreement, including injunction, mandamus, abatement, or other remedy to prevent, enjoin, abate, or enforce the provision.

(4) In an interlocal agreement between a county and one or more municipalities for law enforcement service within an area that includes some or all of the unincorporated area of the county, each county and municipality that is a party to the agreement shall ensure that the agreement requires:

(a) in a county of the second through sixth class, the county sheriff to provide or direct the law enforcement service provided under the agreement; or

(b) in a county of the first class, the chief executive for law enforcement services to be appointed to provide or direct the law enforcement service provided under the agreement.

(5) A peace officer employed by the interlocal entity, as defined in Section 11-13-103, as of May 3, 2023, who transfers to the county sheriff's office before July 1, 2025, retains the protections of Title 17, Chapter 30A, Part 3, Merit Officer Conditions of Employment.

Amended by Chapter 181, 2023 General Session

11-13-202.5 Approval of certain agreements -- Review by attorney.

(1) Each agreement under Section 11-13-202 and each agreement under Section 11-13-212 shall be approved by:

(a) except as provided in Subsections (1)(b) and (c), the commission, board, council, or other body or officer vested with the executive power of the public agency;

(b) the legislative body of the public agency if the agreement:

(i) requires the public agency to adjust its budget for a current or future fiscal year;

(ii) includes an out-of-state public agency as a party;

(iii) provides for the public agency to acquire or construct:

(A) a facility; or

(B) an improvement to real property;

(iv) provides for the public agency to acquire or transfer title to real property;

(v) provides for the public agency to issue bonds;

(vi) creates an interlocal entity; or

(vii) provides for the public agency to share taxes or other revenues; or

(c) if the public agency is a public agency under Subsection 11-13-103(19)(b), the director or other head of the applicable state department, division, or agency.

(2) If an agreement is required under Subsection (1) to be approved by the public agency's legislative body, the resolution or ordinance approving the agreement shall:

(a) specify the effective date of the agreement; and

(b) if the agreement creates an interlocal entity:
(i) declare that it is the legislative body's intent to create an interlocal entity;
(ii) describe the public purposes for which the interlocal entity is created; and
(iii) describe the powers, duties, and functions of the interlocal entity.
(3) The officer or body required under Subsection (1) to approve an agreement shall, before the agreement may take effect, submit the agreement to the attorney authorized to represent the public agency for review as to proper form and compliance with applicable law.

Amended by Chapter 382, 2016 General Session

11-13-203 Interlocal entities -- Agreement to approve the creation of an interlocal entity -- Electric interlocal entity or energy services interlocal entity -- Registration as a limited purpose entity.

(1) An interlocal entity is:
(a) separate from the public agencies that create it;
(b) a body politic and corporate; and
(c) a political subdivision of the state.
(2)
(a) Any two or more Utah public agencies may enter into an agreement to approve the creation of a Utah interlocal entity to accomplish the purpose of their joint or cooperative action, including undertaking and financing a facility or improvement to provide the service contemplated by that agreement.
(b) The creation, operation, governance, and fiscal procedures of an interlocal entity and its governing authority are governed by this chapter and are not subject to the statutes applicable to its members or other entities.
(3)
(a) A Utah public agency and one or more public agencies may enter into an agreement to approve the creation of an electric interlocal entity to accomplish the purpose of their joint or cooperative action if that purpose is to participate in the undertaking or financing of:
(i) facilities to provide additional project capacity;
(ii) common facilities under Title 54, Chapter 9, Electric Power Facilities Act; or
(iii) electric generation or transmission facilities.
(b) By agreement with one or more public agencies that are not parties to the agreement creating it, a Utah interlocal entity may be reorganized as an electric interlocal entity if:
(i) the public agencies that are parties to the agreement creating the Utah interlocal entity authorize, in the same manner required to amend the agreement creating the Utah interlocal entity, the Utah interlocal entity to be reorganized as an electric interlocal entity; and
(ii) the purpose of the joint or cooperative action to be accomplished by the electric interlocal entity meets the requirements of Subsection (3)(a).
(4)
(a) Two or more Utah public agencies may enter into an agreement with one another or with one or more public agencies to approve the creation of an energy services interlocal entity to accomplish the purposes of their joint and cooperative action with respect to facilities, services, and improvements necessary or desirable with respect to the acquisition, generation, transmission, management, and distribution of electric energy for the use and benefit of the public agencies that enter into the agreement.
(b)

(i) A Utah interlocal entity that was created to facilitate the transmission or supply of electric power may, by resolution adopted by its governing board, elect to become an energy services interlocal entity.
(ii) Notwithstanding Subsection (4)(b)(i), a Utah interlocal entity that is also a project entity may not elect to become an energy services interlocal entity.
(iii) An election under Subsection (4)(b)(i) does not alter, limit, or affect the validity or enforceability of a previously executed contract, agreement, bond, or other obligation of the Utah interlocal entity making the election.

(5)
(a) Each interlocal entity shall register and maintain the interlocal entity's registration as a limited purpose entity, in accordance with Section 67-1a-15.
(b) An interlocal entity that fails to comply with Subsection (5)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Amended by Chapter 256, 2018 General Session

11-13-203.5 Powers, immunities, and privileges of law enforcement officers under an agreement for law enforcement -- Requirements for out-of-state officers.

(1) While performing duties under an agreement for law enforcement services under Subsection 11-13-202(1)(d), whether inside or outside the law enforcement officer's own jurisdiction, each law enforcement officer shall possess:
(a) all law enforcement powers that the officer possesses within the officer's own jurisdiction, including the power to arrest; and
(b) the same immunities and privileges as if the duties were performed within the officer's own jurisdiction.

(2) Except as provided in Subsection (3), an agreement between a public agency in this state and an out-of-state public agency providing for reciprocal law enforcement services under Subsection 11-13-202(1)(d) shall require each individual from the out-of-state public agency assigned to law enforcement duty in this state:
(a) to be certified as a peace officer in the state of the out-of-state public agency; and
(b) to apply to the Peace Officer Standards and Training Council, created in Section 53-6-106, for recognition before undertaking duties in this state under the agreement.

(3) The requirements under Subsection (2)(b) do not apply to an agreement between a public agency of this state and an out-of-state public agency to provide reciprocal law enforcement services under Subsection 11-13-202(1)(d) if the agreement:
(a) only provides for aid or assistance to be given by an out-of-state peace officer to a peace officer of this state:
(i) during an emergency; or
(ii) when aid or assistance is requested by the public agency of this state; and
(b) does not include a provision allowing an out-of-state officer to be regularly assigned to law enforcement duties in this state.

Amended by Chapter 452, 2023 General Session

11-13-204 Powers and duties of interlocal entities -- Additional powers of energy services interlocal entities -- Length of term of agreement and interlocal entity -- Notice to lieutenant governor -- Recording requirements -- Public Service Commission.

(1)

(a) An interlocal entity:
(i) shall adopt bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business;
(ii) may:
(A) amend or repeal a bylaw, policy, or procedure;
(B) sue and be sued;
(C) have an official seal and alter that seal at will;
(D) make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions;
(E) acquire real or personal property, or an undivided, fractional, or other interest in real or personal property, necessary or convenient for the purposes contemplated in the agreement creating the interlocal entity and sell, lease, or otherwise dispose of that property;
(F) directly or by contract with another:
(I) own and acquire facilities and improvements or an undivided, fractional, or other interest in facilities and improvements;
(II) construct, operate, maintain, and repair facilities and improvements; and
(III) provide the services contemplated in the agreement creating the interlocal entity and establish, impose, and collect rates, fees, and charges for the services provided by the interlocal entity;
(G) borrow money, incur indebtedness, and issue revenue bonds, notes, or other obligations and secure their payment by an assignment, pledge, or other conveyance of all or any part of the revenues and receipts from the facilities, improvements, or services that the interlocal entity provides;
(H) offer, issue, and sell warrants, options, or other rights related to the bonds, notes, or other obligations issued by the interlocal entity;
(I) sell or contract for the sale of the services, output, product, or other benefits provided by the interlocal entity to:
(I) public agencies inside or outside the state; and
(II) with respect to any excess services, output, product, or benefits, any person on terms that the interlocal entity considers to be in the best interest of the public agencies that are parties to the agreement creating the interlocal entity; and
(J) create a local disaster recovery fund in the same manner and to the same extent as authorized for a local government in accordance with Section 53-2a-605; and
(iii) may not levy, assess, or collect ad valorem property taxes.
(b) An assignment, pledge, or other conveyance under Subsection (1)(a)(ii)(G) may, to the extent provided by the documents under which the assignment, pledge, or other conveyance is made, rank prior in right to any other obligation except taxes or payments in lieu of taxes payable to the state or its political subdivisions.
(2) An energy services interlocal entity:
(a) except with respect to any ownership interest it has in facilities providing additional project capacity, is not subject to:
(i)Part 3, Project Entity Provisions; or
(ii)Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; and
(b) may:

(i) own, acquire, and, by itself or by contract with another, construct, operate, and maintain a facility or improvement for the generation, transmission, and transportation of electric energy or related fuel supplies;

(ii) enter into a contract to obtain a supply of electric power and energy and ancillary services, transmission, and transportation services, and supplies of natural gas and fuels necessary for the operation of generation facilities;

(iii) enter into a contract with public agencies, investor-owned or cooperative utilities, and others, whether located in or out of the state, for the sale of wholesale services provided by the energy services interlocal entity; and

(iv) adopt and implement risk management policies and strategies and enter into transactions and agreements to manage the risks associated with the purchase and sale of energy, including forward purchase and sale contracts, hedging, tolling and swap agreements, and other instruments.

(3) Notwithstanding Section 11-13-216, an agreement creating an interlocal entity or an amendment to that agreement may provide that the agreement may continue and the interlocal entity may remain in existence until the latest to occur of:

(a) 50 years after the date of the agreement or amendment;

(b) five years after the interlocal entity has fully paid or otherwise discharged all of its indebtedness;

(c) five years after the interlocal entity has abandoned, decommissioned, or conveyed or transferred all of its interest in its facilities and improvements; or

(d) five years after the facilities and improvements of the interlocal entity are no longer useful in providing the service, output, product, or other benefit of the facilities and improvements, as determined under the agreement governing the sale of the service, output, product, or other benefit.

(4)

(a) Upon execution of an agreement to approve the creation of an interlocal entity, including an electric interlocal entity and an energy services interlocal entity, the governing body of a member of the interlocal entity under Section 11-13-203 shall:

(i) within 30 days after the date of the agreement, jointly file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) if less than all of the territory of any Utah public agency that is a party to the agreement is included within the interlocal entity, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5:

(A) if the interlocal entity is located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

(Bb) certificate of creation; and

(Cc) approved final local entity plat, if an approved final local entity plat was required to be filed with the lieutenant governor under Subsection (4)(a)(i)(B); and

(II) a certified copy of the agreement approving the creation of the interlocal entity; or

(B) if the interlocal entity is located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity; and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity.

(b) Upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, the interlocal entity is created.

(c) Until the documents listed in Subsection (4)(a)(ii) are recorded in the office of the recorder of each county in which the property is located, a newly created interlocal entity may not charge or collect a fee for service provided to property within the interlocal entity.

(5) Nothing in this section may be construed as expanding the rights of any municipality or interlocal entity to sell or provide retail service.

(6) Except as provided in Subsection (7):

(a) nothing in this section may be construed to expand or limit the rights of a municipality to sell or provide retail electric service; and

(b) an energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members.

(7)

(a) An energy services interlocal entity created before July 1, 2003, that is comprised solely of Utah municipalities and that, for a minimum of 50 years before July 1, 2010, provided retail electric service to customers outside the municipal boundaries of its members, may provide retail electric service outside the municipal boundaries of its members if:

(i) the energy services interlocal entity:

(A) enters into a written agreement with each public utility holding a certificate of public convenience and necessity issued by the Public Service Commission to provide service within an agreed upon geographic area for the energy services interlocal entity to be responsible to provide electric service in the agreed upon geographic area outside the municipal boundaries of the members of the energy services interlocal entity; and

(B) obtains a franchise agreement, with the legislative body of the county or other governmental entity for the geographic area in which the energy services interlocal entity provides service outside the municipal boundaries of its members; and

(ii) each public utility described in Subsection (7)(a)(i)(A) applies for and obtains from the Public Service Commission approval of the agreement specified in Subsection (7)(a)(i)(A).

(b)

(i) The Public Service Commission shall, after a public hearing held in accordance with Title 52, Chapter 4, Open and Public Meetings Act, approve an agreement described in Subsection (7)(a)(ii) if it determines that the agreement is in the public interest in that it incorporates the customer protections described in Subsection (7)(c) and the franchise agreement described in Subsection (7)(a)(i)(B) provides a reasonable mechanism using a neutral arbiter or ombudsman for resolving potential future complaints by customers of the energy services interlocal entity.

(ii) In approving an agreement, the Public Service Commission shall also amend the certificate of public convenience and necessity of any public utility described in Subsection (7)(a)(i) to delete from the geographic area specified in the certificate or certificates of the public utility the geographic area that the energy services interlocal entity has agreed to serve.

(c) In providing retail electric service to customers outside of the municipal boundaries of its members, but not within the municipal boundaries of another municipality that grants a

franchise agreement in accordance with Subsection (7)(a)(i)(B), an energy services interlocal entity shall comply with the following:

(i) the rates and conditions of service for customers outside the municipal boundaries of the members shall be at least as favorable as the rates and conditions of service for similarly situated customers within the municipal boundaries of the members;

(ii) the energy services interlocal entity shall operate as a single entity providing service both inside and outside of the municipal boundaries of its members;

(iii) a general rebate, refund, or other payment made to customers located within the municipal boundaries of the members shall also be provided to similarly situated customers located outside the municipal boundaries of the members;

(iv) a schedule of rates and conditions of service, or any change to the rates and conditions of service, shall be approved by the governing board of the energy services interlocal entity;

(v) before implementation of any rate increase, the governing board of the energy services interlocal entity shall first hold a public meeting to take public comment on the proposed increase, after providing:

(A) at least 20 days and not more than 60 days' advance written notice to its customers on the ordinary billing; and

(B) notice for the interlocal entity, as a class A notice under Section 63G-30-102, for at least 20 days; and

(vi) the energy services interlocal entity shall file with the Public Service Commission its current schedule of rates and conditions of service.

(d) The Public Service Commission shall make the schedule of rates and conditions of service of the energy services interlocal entity available for public inspection.

(e) Nothing in this section:

(i) gives the Public Service Commission jurisdiction over the provision of retail electric service by an energy services interlocal entity within the municipal boundaries of its members; or

(ii) makes an energy services interlocal entity a public utility under Title 54, Public Utilities.

(f) Nothing in this section expands or diminishes the jurisdiction of the Public Service Commission over a municipality or an association of municipalities organized under Title 11, Chapter 13, Interlocal Cooperation Act, except as specifically authorized by this section's language.

(g)

(i) An energy services interlocal entity described in Subsection (7)(a) retains its authority to provide electric service to the extent authorized by Sections 11-13-202 and 11-13-203 and Subsections 11-13-204(1) through (5).

(ii) Notwithstanding Subsection (7)(g)(i), if the Public Service Commission approves the agreement described in Subsection (7)(a)(i), the energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members, except for customers located within the geographic area described in the agreement.

Amended by Chapter 435, 2023 General Session

11-13-205 Agreement by public agencies to approve the creation of a new entity to own sewage and wastewater facilities -- Powers and duties of new entities -- Validation of previously created entities -- Notice to lieutenant governor -- Recording requirements.

(1) It is declared that the policy of the state is to assure the health, safety, and welfare of its citizens, that adequate sewage and wastewater treatment plants and facilities are essential

to the well-being of the citizens of the state and that the acquisition of adequate sewage and wastewater treatment plants and facilities on a regional basis in accordance with federal law and state and federal water quality standards and effluent standards in order to provide services to public agencies is a matter of statewide concern and is in the public interest. It is found and declared that there is a statewide need to provide for regional sewage and wastewater treatment plants and facilities, and as a matter of express legislative determination it is declared that the compelling need of the state for construction of regional sewage and wastewater treatment plants and facilities requires the creation of entities under the Interlocal Cooperation Act to own, construct, operate, and finance sewage and wastewater treatment plants and facilities; and it is the purpose of this law to provide for the accomplishment thereof in the manner provided in this section.

(2) Any two or more public agencies of the state may also agree to approve the creation of a separate legal or administrative entity to accomplish and undertake the purpose of owning, acquiring, constructing, financing, operating, maintaining, and repairing regional sewage and wastewater treatment plants and facilities.

(3) A separate legal or administrative entity created under this section is considered to be a political subdivision and body politic and corporate of the state with power to carry out and effectuate its corporate powers, including the power:

(a) to adopt, amend, and repeal rules, bylaws, and regulations, policies, and procedures for the regulation of its affairs and the conduct of its business, to sue and be sued in its own name, to have an official seal and power to alter that seal at will, and to make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under the Interlocal Cooperation Act;

(b) to own, acquire, construct, operate, maintain, repair, or cause to be constructed, operated, maintained, and repaired one or more regional sewage and wastewater treatment plants and facilities, all as shall be set forth in the agreement providing for its creation;

(c) to borrow money, incur indebtedness and issue revenue bonds, notes or other obligations payable solely from the revenues and receipts derived from all or a portion of the regional sewage and wastewater treatment plants and facilities which it owns, operates, and maintains, such bonds, notes, or other obligations to be issued and sold in compliance with the provisions of Title 11, Chapter 14, Local Government Bonding Act;

(d) to enter into agreements with public agencies and other parties and entities to provide sewage and wastewater treatment services on such terms and conditions as it considers to be in the best interests of its participants; and

(e) to acquire by purchase or by exercise of the power of eminent domain, any real or personal property in connection with the acquisition and construction of any sewage and wastewater treatment plant and all related facilities and rights-of-way which it owns, operates, and maintains.

(4) The provisions of Part 3, Project Entity Provisions, do not apply to a legal or administrative entity created for regional sewage and wastewater treatment purposes under this section.

(5) All proceedings previously had in connection with the creation of any legal or administrative entity pursuant to this chapter, and all proceedings previously had by any such entity for the authorization and issuance of bonds of the entity are validated, ratified, and confirmed; and these entities are declared to be validly created interlocal cooperation entities under this chapter. These bonds, whether previously or subsequently issued pursuant to these proceedings, are validated, ratified, and confirmed and declared to constitute, if previously issued, or when issued, the valid and legally binding obligations of the entity in accordance with their terms. Nothing in this section shall be construed to affect or validate any bonds, or

the organization of any entity, the legality of which is being contested at the time this act takes effect.

(6)

(a) The governing body of each party to the agreement to approve the creation of an entity under this section shall:

(i) within 30 days after the date of the agreement, jointly file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5:

(A) if the entity is located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

(Bb) certificate of creation; and

(Cc) approved final local entity plat; and

(II) a certified copy of the agreement approving the creation of the entity; or

(B) if the entity is located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (6)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the entity; and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (6)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the entity.

(b) Upon the lieutenant governor's issuance of a certificate of entity creation under Section 67-1a-6.5, the entity is created.

(c) Until the documents listed in Subsection (6)(a)(ii) are recorded in the office of the recorder of each county in which the property is located, a newly created entity under this section may not charge or collect a fee for service provided to property within the entity.

Amended by Chapter 350, 2009 General Session

11-13-206 Requirements for agreements for joint or cooperative action.

(1) Each agreement under Section 11-13-202, 11-13-203, 11-13-205, or 11-13-227 shall specify:

(a) its duration;

(b) if the agreement creates an interlocal entity:

(i) the precise organization, composition, and nature of the interlocal entity;

(ii) the powers delegated to the interlocal entity;

(iii) the manner in which the interlocal entity is to be governed; and

(iv) subject to Subsection (2), the manner in which the members of its governing board are to be appointed or selected;

(c) its purpose or purposes;

(d) the manner of financing the joint or cooperative action and of establishing and maintaining a budget for it;

(e) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;
(f) the process, conditions, and terms for withdrawal of a participating public agency from the interlocal entity or the joint or cooperative undertaking;
(g)
(i) whether voting is based upon one vote per member or weighted; and
(ii) if weighted voting is allowed, the basis upon which the vote weight will be determined; and
(h) any other necessary and proper matters.
(2) Each agreement under Section 11-13-203 or 11-13-205 that creates an interlocal entity shall require that Utah public agencies that are parties to the agreement have the right to appoint or select members of the interlocal entity's governing board with a majority of the voting power.

Amended by Chapter 424, 2018 General Session

11-13-207 Additional requirements for agreement not establishing interlocal entity.
(1) If an agreement under Section 11-13-202 or 11-13-227 does not establish an interlocal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to the items specified in Section 11-13-206, provide for:
(a) the joint or cooperative undertaking to be administered by:
(i) an administrator; or
(ii) a joint board with representation from the public agencies that are parties to the agreement;
(b) the manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking;
(c) the functions to be performed by the joint or cooperative undertaking; and
(d) the powers of the joint administrator.
(2) The creation, operation, governance, and fiscal procedures of a joint or cooperative undertaking are governed by this chapter.

Amended by Chapter 424, 2018 General Session

11-13-208 Agreement does not relieve public agency of legal obligation or responsibility -- Exception.
(1) Except as provided in Subsection (2), an agreement made under this chapter does not relieve a public agency of an obligation or responsibility imposed upon it by law.
(2) If an obligation or responsibility of a public agency is actually and timely performed by a joint or cooperative undertaking or by an interlocal entity created by an agreement made under this chapter, that performance may be offered in satisfaction of the obligation or responsibility.

Amended by Chapter 265, 2015 General Session

11-13-209 Filing of agreement.
An agreement made under this chapter does not take effect until it is filed with the keeper of records of each of the public agencies that are parties to the agreement.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-210 Controversies involving agreements between Utah public agencies and out-of-state agencies.

(1) In any case or controversy involving the performance or interpretation of or the liability under an agreement entered into under this chapter between or among one or more Utah public agencies and one or more out-of-state public agencies, the public agencies that are parties to the agreement shall be real parties in interest and the state may maintain an action to recoup or otherwise make itself whole for any damages or liabilities which it may incur by reason of being joined as a party to the case or controversy.

(2) An action shall be maintainable against any public agency whose default, failure to perform, or other conduct caused or contributed to the incurring of damage or liability by the state.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-211 Public agencies authorized to provide resources to joint or cooperative undertaking or interlocal entity.

A public agency entering into an agreement under this chapter under which a joint or cooperative undertaking is established or an interlocal entity is created may:

(1) appropriate funds to the joint or cooperative undertaking or interlocal entity;

(2) sell, lease, give, or otherwise supply tangible and intangible property to the joint or cooperative undertaking or interlocal entity; and

(3) provide personnel or services for the joint or cooperative undertaking or interlocal entity as may be within its legal power to furnish.

Amended by Chapter 265, 2015 General Session

11-13-212 Contracts between public agencies or with interlocal entities to perform services, activities, or undertakings -- Facilities and improvements.

(1)

(a) Public agencies may contract with each other and one or more public agencies may contract with an interlocal entity created under this chapter to perform any service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform.

(b) Each contract under Subsection (1)(a) shall be authorized as provided in Section 11-13-202.5.

(c) Each contract under Subsection (1)(a) shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contracting parties.

(d) In order to perform a service, activity, or undertaking provided for in a contract under Subsection (1)(a), a public agency may create, construct, or otherwise acquire facilities or improvements in excess of those required to meet the needs and requirements of the parties to the contract.

(2) An interlocal entity created by agreement under this chapter may create, construct, or otherwise acquire facilities or improvements to render services or provide benefits in excess of those required to meet the needs or requirements of the public agencies that are parties to the agreement if it is determined by the public agencies to be necessary to accomplish the purposes and realize the benefits set forth in Section 11-13-102.

Amended by Chapter 38, 2003 General Session

11-13-213 Agreements for joint ownership, operation, or acquisition of facilities or improvements.

Any two or more public agencies may make agreements between or among themselves:

(1) for the joint ownership of any one or more facilities or improvements which they have authority by law to own individually;

(2) for the joint operation of any one or more facilities or improvements which they have authority by law to operate individually;

(3) for the joint acquisition by gift, grant, purchase, construction, condemnation or otherwise of any one or more such facilities or improvements and for the extension, repair or improvement thereof;

(4) for the exercise by an interlocal entity of its powers with respect to any one or more facilities or improvements and the extensions, repairs, or improvements of them; or

(5) any combination of the foregoing.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-214 Conveyance or acquisition of property by public agency.

In carrying out the provisions of this chapter, any public agency may convey property to or acquire property from any other public agency for consideration as may be agreed upon.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-215 Sharing tax or other revenues.

(1) A county, city, town, or other local political subdivision may, at the discretion of the local governing body, share its tax and other revenues with other counties, cities, towns, or local political subdivisions, the state, or a federal government agency.

(2) Each decision to share tax and other revenues shall be made as provided in Section 11-13-202.5.

Amended by Chapter 38, 2003 General Session

11-13-216 Term of agreements.

(1) Except as provided in Subsections (2) and 11-13-204(3), each agreement under this chapter shall extend for a term not to exceed 50 years.

(2) Subsection (1) does not apply to an agreement to which:

(a) a project entity is a party;

(b) an electric interlocal entity is a party; or

(c) an energy services interlocal entity is a party.

Amended by Chapter 8, 2014 General Session

11-13-217 Control and operation of joint facility or improvement provided by agreement.

Any facility or improvement jointly owned or jointly operated by any two or more public agencies or acquired or constructed pursuant to an agreement under this chapter may be operated by any one or more of the interested public agencies designated for the purpose or may be operated by a joint or cooperative undertaking or an interlocal entity created for the purpose or through an agreement by an interlocal entity and a public agency receiving service or other benefits from such entity or may be controlled and operated in some other manner, all as may be provided by

appropriate agreement. Payment for the cost of such operation shall be made as provided in any such agreement.

Amended by Chapter 265, 2015 General Session

11-13-218 Authority of public agencies or interlocal entities to issue bonds -- Applicable provisions.

(1) A public agency may, in the same manner as it may issue bonds for its individual acquisition of a facility or improvement or for constructing, improving, or extending a facility or improvement, issue bonds to:
  (a) acquire an interest in a jointly owned facility or improvement, a combination of a jointly owned facility or improvement, or any other facility or improvement; or
  (b) pay all or part of the cost of constructing, improving, or extending a jointly owned facility or improvement, a combination of a jointly owned facility or improvement, or any other facility or improvement.

(2)
  (a) An interlocal entity may issue bonds or notes under a resolution, trust indenture, or other security instrument for the purpose of:
    (i) financing its facilities or improvements; or
    (ii) providing for or financing an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure in accordance with Title 11, Chapter 42, Assessment Area Act.
  (b) The bonds or notes may be sold at public or private sale, mature at such times and bear interest at such rates, and have such other terms and security as the entity determines.
  (c) The bonds or notes described in this Subsection (2) are not a debt of any public agency that is a party to the agreement.

(3) The governing board may, by resolution, delegate to one or more officers of the interlocal entity or to a committee of designated members of the governing board the authority to:
  (a) in accordance with and within the parameters set forth in the resolution, approve the final interest rate, price, principal amount, maturity, redemption features, or other terms of a bond or note; and
  (b) approve and execute all documents relating to the issuance of the bond or note.

(4) Bonds and notes issued under this chapter are declared to be negotiable instruments and their form and substance need not comply with the Uniform Commercial Code.

(5)
  (a) An interlocal entity shall issue bonds in accordance with, as applicable:
    (i)Chapter 14, Local Government Bonding Act;
    (ii)Chapter 27, Utah Refunding Bond Act;
    (iii) this chapter; or
    (iv) any other provision of state law that authorizes issuance of bonds by a public body.
  (b) An interlocal entity is a public body as defined in Section 11-30-2.

Amended by Chapter 371, 2016 General Session

11-13-218.1 Pledge of revenues to pay for bonds.

(1) In addition to any assignment, pledge, or conveyance made in accordance with Subsection 11-13-204(1)(a)(ii)(G), bonds issued by an interlocal entity may be payable from and secured by the pledge of all or any specified part of:

(a) the revenues to be derived by the interlocal entity from providing the entity's services and from the operation of the entity's facilities and other properties;
(b) sales and use taxes, property taxes, and other taxes;
(c) federal, state, or local grants; or
(d) other funds legally available to the interlocal entity.
(2) An assignment, pledge, or conveyance made by an interlocal entity to secure bonds shall be created and perfected in accordance with, and have the effect provided in, Section 11-14-501.

Enacted by Chapter 265, 2015 General Session

11-13-219 Publication of resolutions or agreements -- Contesting legality of resolution or agreement.
(1) As used in this section:
(a) "Enactment" means:
(i) a resolution adopted or proceedings taken by a governing body under the authority of this chapter, and includes a resolution, indenture, or other instrument providing for the issuance of bonds; and
(ii) an agreement or other instrument that is authorized, executed, or approved by a governing body under the authority of this chapter.
(b) "Governing body" means:
(i) the legislative body of a public agency; or
(ii) the governing authority of an interlocal entity created under this chapter.
(c) "Notice of agreement" means the notice authorized by Subsection (3)(c).
(d) "Notice of bonds" means the notice authorized by Subsection (3)(d).
(2) Any enactment taken or made under the authority of this chapter is not subject to referendum.
(3)
(a) A governing body need not publish any enactment taken or made under the authority of this chapter.
(b) A governing body may provide for the publication of any enactment taken or made by it under the authority of this chapter according to the publication requirements established by this section.
(c)
(i) If the enactment is an agreement, document, or other instrument, or a resolution or other proceeding authorizing or approving an agreement, document, or other instrument, the governing body may, instead of publishing the full text of the agreement, resolution, or other proceeding, publish a notice of agreement containing:
(A) the names of the parties to the agreement;
(B) the general subject matter of the agreement;
(C) the term of the agreement;
(D) a description of the payment obligations, if any, of the parties to the agreement; and
(E) a statement that the resolution and agreement will be available for review at the governing body's principal place of business during regular business hours for 30 days after the publication of the notice of agreement.
(ii) The governing body shall make a copy of the resolution or other proceeding and a copy of the contract available at its principal place of business during regular business hours for 30 days after the publication of the notice of agreement.
(d) If the enactment is a resolution or other proceeding authorizing the issuance of bonds, the governing body may, instead of publishing the full text of the resolution or other proceeding

and the documents pertaining to the issuance of bonds, publish a notice of bonds that contains the information described in Subsection 11-14-316(2).

(4)

(a) If the governing body chooses to publish an enactment, notice of bonds, or notice of agreement, the governing body shall comply with the requirements of this Subsection (4).

(b) The governing body shall post the enactment, notice of bonds, or notice of agreement for the governing body's geographic jurisdiction, as a class A notice under Section 63G-30-102, for 30 days.

(5)

(a) Any person in interest may contest the legality of an enactment or any action performed or instrument issued under the authority of the enactment for 30 days after the posting of the enactment, notice of bonds, or notice of agreement.

(b) After the 30 days have passed, no one may contest the regularity, formality, or legality of the enactment or any action performed or instrument issued under the authority of the enactment for any cause whatsoever.

Amended by Chapter 435, 2023 General Session

11-13-220 Qualifications of officers or employees performing services under agreements.

Other provisions of law which require an officer or employee of a public agency to be an elector or resident of the public agency or to have other qualifications not generally applicable to all of the contracting agencies in order to qualify for that office or employment are not applicable to officers or employees who hold office or perform services for more than one public agency pursuant to agreements executed under this chapter.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-221 Compliance with chapter sufficient to effectuate agreements.

When public agencies enter into agreements under this chapter whereby they utilize a power or facility jointly, or whereby one political agency provides a service or facility to another, compliance with the requirements of this chapter is sufficient to effectuate those agreements.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-222 Employees performing services under agreements.

(1) An employee performing services for two or more public agencies under an agreement under this chapter shall be considered to be:

(a) an employee of the public agency employing the employee's services even though the employee performs those functions outside of the territorial limits of any one of the contracting public agencies; and

(b) an employee of the public agencies under the provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(2) Unless otherwise provided in an agreement that creates an interlocal entity, each employee of a public agency that is a party to the agreement shall:

(a) remain an employee of that public agency, even though assigned to perform services for another public agency under the agreement; and

(b) continue to be governed by the rules, rights, entitlements, and status that apply to an employee of that public agency.

(3) All of the privileges, immunities from liability, exemptions from laws, ordinances, and rules, pensions and relief, disability, workers compensation, and other benefits that apply to an officer, agent, or employee of a public agency while performing functions within the territorial limits of the public agency apply to the same degree and extent when the officer, agent, or employee performs functions or duties under the agreement outside the territorial limits of that public agency.

Amended by Chapter 265, 2015 General Session

11-13-225 Establishment of interlocal entity personnel system.

(1) An interlocal entity shall establish a system of personnel administration for the interlocal entity as provided in this section.
(2) The interlocal entity shall administer the system described in Subsection (1) in a manner that will effectively provide for:
  (a) recruiting, selecting, and advancing employees on the basis of the employee's relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;
  (b) equitable and adequate compensation;
  (c) employee training as needed to assure high-quality performance;
  (d)
    (i) retaining an employee on the basis of the adequacy of the employee's performance; and
    (ii) separation of an employee whose inadequate performance cannot be corrected;
  (e) fair treatment of an applicant or employee in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for the applicant's or employee's privacy and constitutional rights; and
  (f) a formal procedure for processing the appeals and grievances of an employee without discrimination, coercion, restraint, or reprisal.
(3) An interlocal entity shall ensure that any employee training described in Subsection (2)(c) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Amended by Chapter 200, 2018 General Session

11-13-226 Competitive procurement.

The governing board of each interlocal entity shall adopt rules or policies for the competitive public procurement of goods and services required for the operation of the interlocal entity.

Enacted by Chapter 265, 2015 General Session

11-13-227 Transportation reinvestment zones.

(1) Subject to the provisions of this part, any two or more public agencies may enter into an agreement with one another to create a transportation reinvestment zone as described in this section.
(2) To create a transportation reinvestment zone, two or more public agencies, at least one of which has land use authority over the transportation reinvestment zone area, shall:
  (a) define the transportation infrastructure need and proposed improvement;
  (b) define the boundaries of the zone;
  (c) establish terms for sharing sales tax revenue among the members of the agreement;
  (d) establish a base year to calculate the increase of property tax revenue within the zone;

(e) establish terms for sharing any increase in property tax revenue within the zone; and
(f) before an agreement is approved as required in Section 11-13-202.5, hold a public hearing regarding the details of the proposed transportation reinvestment zone.
(3) Any agreement to establish a transportation reinvestment zone is subject to the requirements of Sections 11-13-202, 11-13-202.5, 11-13-206, and 11-13-207.
(4)
(a) Each public agency that is party to an agreement under this section shall annually publish a report including a statement of the increased tax revenue and the expenditures made in accordance with the agreement.
(b) Each public agency that is party to an agreement under this section shall transmit a copy of the report described in Subsection (4)(a) to the state auditor.
(5) If any surplus revenue remains in a tax revenue account created as part of a transportation reinvestment zone agreement, the parties may use the surplus for other purposes as determined by agreement of the parties.
(6)
(a) An action taken under this section is not subject to:
(i) Section 10-8-2;
(ii)Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;
(iii)Title 17, Chapter 27a, County Land Use, Development, and Management Act; or
(iv) Section 17-50-312.
(b) An ordinance, resolution, or agreement adopted under this title is not a land use regulation as defined in Sections 10-9a-103 and 17-27a-103.

Amended by Chapter 479, 2019 General Session

Part 3
Project Entity Provisions

11-13-301 Project entity and generation output requirements.
(1) Each project entity:
(a) shall:
(i) except for construction of facilities providing replacement project capacity, before undertaking the construction of a project and before undertaking the construction of facilities to provide additional project capacity, offer to sell or make available at least 50% of the generation output of or electric energy produced by the project or additional project capacity, respectively;
(ii) establish rules and procedures for an offer under Subsection (1)(a)(i) that provide at least 60 days for a prospective power purchaser to accept the offer before the offer is considered rejected; and
(iii) make each offer under Subsection (1)(a)(i):
(A) under a long-term arrangement that may be an undivided ownership interest, a participation interest, a power sales agreement, or otherwise; and
(B) to one or more power purchasers in the state that supply electric energy at wholesale or retail; and
(b) may undertake construction of facilities providing replacement project capacity for its project.
(2)

(a) The generation output or electric energy production available to power purchasers in the state from a project shall be at least 5% of the total generation output or electric energy production of the project.

(b)

(i) Subject to Subsection (2)(b)(ii)(B), at least a majority of the generation capacity, generation output, or electric energy production facilities providing additional project capacity shall be:

(A) made available as needed to meet the estimated electric requirements of entities or consumers within the state; and

(B) owned, purchased, or consumed by entities or consumers within the state.

(ii)

(A) As used in this Subsection (2)(b)(ii), "default provision" means a provision authorizing a nondefaulting party to succeed to or require the disposition of the rights and interests of a defaulting party.

(B) The requirements of Subsection (2)(b)(i) do not apply to the extent that those requirements are not met due to the operation of a default provision in an agreement providing for ownership or other interests in facilities providing additional project capacity.

Amended by Chapter 382, 2016 General Session

11-13-302 Payment of fee in lieu of ad valorem property tax by certain energy suppliers -- Method of calculating -- Collection -- Extent of tax lien.

(1)

(a) Each project entity created under this chapter that owns a project and that sells any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in this section to each taxing jurisdiction within which the project or any part of it is located.

(b) For purposes of this section, "annual fee" means the annual fee described in Subsection (1)(a) that is in lieu of ad valorem property tax.

(c) The requirement to pay an annual fee shall commence:

(i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the last generating unit, other than any generating unit providing additional project capacity, of the project occurs, or, in the case of any facilities providing additional project capacity, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the generating unit providing the additional project capacity occurs; and

(ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the project commences, or, in the case of facilities providing additional project capacity, with the fiscal year of the taxing jurisdiction in which construction of those facilities commences.

(d) The requirement to pay an annual fee shall continue for the period of the useful life of the project or facilities.

(2)

(a) The annual fees due a school district shall be as provided in Subsection (2)(b) because the ad valorem property tax imposed by a school district and authorized by the Legislature represents both:

(i) a levy mandated by the state for the state minimum school program under Section 53F-2-301; and

(ii) local levies for capital outlay and other purposes under Sections 53F-8-303, 53F-8-301, and 53F-8-302.

(b) The annual fees due a school district shall be as follows:

(i) the project entity shall pay to the school district an annual fee for the state minimum school program at the rate imposed by the school district and authorized by the Legislature under Section 53F-2-301; and

(ii) for all other local property tax levies authorized to be imposed by a school district, the project entity shall pay to the school district either:

(A) an annual fee; or

(B) impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306.

(3)

(a) An annual fee due a taxing jurisdiction for a particular year shall be calculated by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by multiplying the fee base or value determined in accordance with Subsection (4) for that year of the portion of the project located within the jurisdiction by the percentage of the project which is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

(b) As used in this section, "tax rate," when applied in respect to a school district, includes any assessment to be made by the school district under Subsection (2) or Section 63M-5-302.

(c) There is to be credited against the annual fee due a taxing jurisdiction for each year, an amount equal to the debt service, if any, payable in that year by the project entity on bonds, the proceeds of which were used to provide public facilities and services for impact alleviation in the taxing jurisdiction in accordance with Sections 11-13-305 and 11-13-306.

(d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:

(i) take into account the fee base or value of the percentage of the project located within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the capacity, service, or other benefit sold to the supplier or suppliers; and

(ii) reflect any credit to be given in that year.

(4)

(a) Except as otherwise provided in this section, the annual fees required by this section shall be paid, collected, and distributed to the taxing jurisdiction as if:

(i) the annual fees were ad valorem property taxes; and

(ii) the project were assessed at the same rate and upon the same measure of value as taxable property in the state.

(b)

(i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by this section, the fee base of a project may be determined in accordance with an agreement among:

(A) the project entity; and

(B) any county that:

(I) is due an annual fee from the project entity; and

(II) agrees to have the fee base of the project determined in accordance with the agreement described in this Subsection (4).

(ii) The agreement described in Subsection (4)(b)(i):

(A) shall specify each year for which the fee base determined by the agreement shall be used for purposes of an annual fee; and

(B) may not modify any provision of this chapter except the method by which the fee base of a project is determined for purposes of an annual fee.

(iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing jurisdiction.

(iv)

(A) If there is not agreement as to the fee base of a portion of a project for any year, for purposes of an annual fee, the State Tax Commission shall determine the value of that portion of the project for which there is not an agreement:

(I) for that year; and

(II) using the same measure of value as is used for taxable property in the state.

(B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax Commission in accordance with rules made by the State Tax Commission.

(c) Payments of the annual fees shall be made from:

(i) the proceeds of bonds issued for the project; and

(ii) revenues derived by the project entity from the project.

(d)

(i) The contracts of the project entity with the purchasers of the capacity, service, or other benefits of the project whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax shall require each purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for, its share, determined in accordance with the terms of the contract, of these fees.

(ii) It is the responsibility of the project entity to enforce the obligations of the purchasers.

(5)

(a) The responsibility of the project entity to make payment of the annual fees is limited to the extent that there is legally available to the project entity, from bond proceeds or revenues, money to make these payments, and the obligation to make payments of the annual fees is not otherwise a general obligation or liability of the project entity.

(b) No tax lien may attach upon any property or money of the project entity by virtue of any failure to pay all or any part of an annual fee.

(c) The project entity or any purchaser may contest the validity of an annual fee to the same extent as if the payment was a payment of the ad valorem property tax itself.

(d) The payments of an annual fee shall be reduced to the extent that any contest is successful.

(6)

(a) The annual fee described in Subsection (1):

(i) shall be paid by a public agency that:

(A) is not a project entity; and

(B) owns an interest in a facility providing additional project capacity if the interest is otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

(ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in accordance with Subsection (6)(b).

(b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

(i) the fee base or value of the facility providing additional project capacity located within the jurisdiction;

(ii) the percentage of the ownership interest of the public agency in the facility; and

(iii) the portion, expressed as a percentage, of the public agency's ownership interest that is attributable to the capacity, service, or other benefit from the facility that is sold, including

any subsequent sale, resale, or layoff, by the public agency to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

(c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect to its ownership interest as though it were a project entity.

(d) On or before March 1 of each year, a project entity that owns a project and that provides any capacity, service, or other benefit to an energy supplier or a public agency shall file an electronic report with the State Tax Commission that identifies:

(i) each energy supplier and public agency to which the project entity delivers capacity, service, or other benefit; and

(ii) the amount of capacity, service, or other benefit delivered to each energy supplier and public agency.

Amended by Chapter 7, 2023 General Session

11-13-303 Source of project entity's payment of sales and use tax -- Gross receipts taxes for facilities providing additional project capacity.

(1) A project entity is not exempt from sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act, to the extent provided in Subsection 59-12-104(2).

(2) A project entity may make payments or prepayments of sales and use taxes, as provided in Title 63M, Chapter 5, Resource Development Act, from the proceeds of revenue bonds issued under Section 11-13-218 or other revenues of the project entity.

(3)

(a) This Subsection (3) applies with respect to facilities providing additional project capacity.

(b)

(i) The in lieu excise tax imposed under Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, shall be imposed collectively on all gross receipts derived with respect to the ownership interests of all project entities and other public agencies in facilities providing additional project capacity as though all such ownership interests were held by a single project entity.

(ii) The in lieu excise tax shall be calculated as though the gross receipts derived with respect to all such ownership interests were received by a single taxpayer that has no other gross receipts.

(iii) The gross receipts attributable to such ownership interests shall consist solely of gross receipts that are expended by each project entity and other public agency holding an ownership interest in the facilities for the operation or maintenance of or ordinary repairs or replacements to the facilities.

(iv) For purposes of calculating the in lieu excise tax, the determination of whether there is a tax rate and, if so, what the tax rate is shall be governed by Section 59-8-104, except that the $10,000,000 figures in Section 59-8-104 indicating the amount of gross receipts that determine the applicable tax rate shall be replaced with $5,000,000.

(c) Each project entity and public agency owning an interest in the facilities providing additional project capacity shall be liable only for the portion of the gross receipts tax referred to in Subsection (3)(b) that is proportionate to its percentage ownership interest in the facilities and may not be liable for any other gross receipts taxes with respect to its percentage ownership interest in the facilities.

(d) No project entity or other public agency that holds an ownership interest in the facilities may be subject to the taxes imposed under Title 59, Chapter 7, Corporate Franchise and Income Taxes, with respect to those facilities.

(4) For purposes of calculating the gross receipts tax imposed on a project entity or other public agency under Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Subsection (3), gross receipts include only gross receipts from the first sale of capacity, services, or other benefits and do not include gross receipts from any subsequent sale, resale, or layoff of the capacity, services, or other benefits.

Amended by Chapter 189, 2014 General Session

11-13-304 Certificate of public convenience and necessity required -- Exceptions.

(1) Before proceeding with the construction of any electrical generating plant or transmission line, each interlocal entity and each out-of-state public agency shall first obtain from the public service commission a certificate, after hearing, that public convenience and necessity requires such construction and in addition that such construction will in no way impair the public convenience and necessity of electrical consumers of the state of Utah at the present time or in the future.

(2) The requirement to obtain a certificate of public convenience and necessity applies to each project initiated after the section's effective date but does not apply to:

(a) a project for which a feasibility study was initiated prior to the effective date;

(b) any facilities providing additional project capacity;

(c) any facilities providing replacement project capacity; or

(d) transmission lines required for the delivery of electricity from a project described in Subsection (2)(a), or facilities providing additional project capacity, or facilities providing replacement project capacity within the corridor of a transmission line, with reasonable deviation, of a project producing as of April 21, 1987.

Amended by Chapter 382, 2016 General Session

11-13-305 Impact alleviation requirements -- Payments in lieu of ad valorem tax -- Source of impact alleviation payment.

(1)

(a)

(i) A project entity may assume financial responsibility for or provide for the alleviation of the direct impacts of its project, and make loans to candidates to alleviate impacts created by the construction or operation of any facility owned by others which is utilized to furnish fuel, construction or operation materials for use in the project to the extent the impacts were attributable to the project.

(ii) Provision for the alleviation may be made by contract as provided in Subsection (2) or by the terms of a determination order as provided in Section 11-13-306.

(b) A Utah public agency that is not a project entity may take the actions set forth in this Subsection (1) as though it were a project entity with respect to its ownership interest in facilities providing additional project capacity.

(2) A candidate may, except as otherwise provided in Section 11-13-306, require the project entity or, in the case of facilities providing additional project capacity, any other public agency that owns an interest in those facilities, to enter into a contract with the candidate requiring the

project entity or other public agency to assume financial responsibility for or provide for the alleviation of any direct impacts experienced by the candidate as a result of the project or facilities providing additional project capacity, as the case may be. Each contract with respect to a project or facilities providing additional project capacity shall be for a term ending at or before the end of the fiscal year of the candidate who is party to the contract immediately before the fiscal year in which the project becomes, or, in the case of facilities providing additional project capacity, those facilities become subject to the fee set forth in Section 11-13-302, unless terminated earlier as provided in Section 11-13-310, and shall specify the direct impacts or methods to determine the direct impacts to be covered, the amounts, or methods of computing the amounts, of the alleviation payments, or the means to provide for impact alleviation, provisions assuring the timely completion of the project or facilities providing additional project capacity and the furnishing of the services, and such other pertinent matters as shall be agreed to by the project entity or other public agency and the candidate.

(3) Beginning at the time specified in Subsection 11-13-302(1), the project entity or other public agency shall make in lieu ad valorem tax payments to that candidate to the extent required by, and in the manner provided in, Section 11-13-302.

(4) Payments under any impact alleviation contract or pursuant to a determination by the board shall be made from the proceeds of bonds issued for the project or for the facilities providing additional project capacity or from any other sources of funds available with respect to the project or the facilities providing additional project capacity.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-306 Procedure in case of inability to formulate contract for impact alleviation.

(1) If the project entity or other public agency and a candidate are unable to agree upon the terms of an impact alleviation contract or to agree that the candidate has or will experience any direct impacts, the project entity or other public agency and the candidate shall each have the right to submit the question of whether or not these direct impacts have been or will be experienced, and any other questions regarding the terms of the impact alleviation contract to the board for its determination.

(2) Within 40 days after receiving a notice of a request for determination, the board shall hold a public hearing on the questions at issue, at which hearing the parties shall have an opportunity to present evidence. Within 20 days after the conclusion of the hearing, the board shall enter an order embodying its determination and directing the parties to act in accordance with it. The order shall contain findings of facts and conclusions of law setting forth the reasons for the board's determination. To the extent that the order pertains to the terms of an impact alleviation contract, the terms of the order shall satisfy the criteria for contract terms set forth in Section 11-13-305.

(3) At any time 20 or more days before the hearing begins, either party may serve upon the adverse party an offer to agree to specific terms or payments. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance, together with proof of service thereof, and the board shall enter a corresponding order. An offer not accepted shall be deemed withdrawn and evidence concerning it is not admissible except in a proceeding to determine costs. If the order finally obtained by the offeree is not more favorable than the offer, the offeree shall pay the costs incurred after the making of the offer, including a reasonable attorney's fee. The fact that an offer is made but not accepted does not preclude a subsequent offer.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-307 Method of amending impact alleviation contract.

An impact alleviation contract or a determination order may be amended with the consent of the parties, or otherwise in accordance with their provisions. In addition, any party may propose an amendment to a contract or order which, if not agreed to by the other parties, may be submitted by the proposing party to the board for a determination of whether or not the amendment shall be incorporated into the contract or order. The board shall determine whether or not a contract or determination order shall be amended under the procedures and standards set forth in Sections 11-13-305 and 11-13-306.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-308 Effect of failure to comply.

The construction or operation of a project or of facilities providing additional project capacity may commence and proceed, notwithstanding the fact that all impact alleviation contracts or determination orders with respect to the project or facilities providing additional project capacity have not been entered into or made or that any appeal or review concerning the contract or determination has not been finally resolved. The failure of the project entity or other public agency to comply with the requirements of this chapter or with the terms of any alleviation contract or determination order or any amendment to them may not be grounds for enjoining the construction or operation of the project or facilities providing additional project capacity.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-309 Venue for civil action -- No trial de novo.

(1) Any civil action seeking to challenge, enforce, or otherwise have reviewed, any order of the board, or any alleviation contract, shall be brought only in the district court for the county within which is located the candidate to which the order or contract pertains. If the candidate is the state of Utah, the action shall be brought in the district court for Salt Lake County. Any action brought in any judicial district shall be ordered transferred to the court where venue is proper under this section.

(2) In any civil action seeking to challenge, enforce, or otherwise review, any order of the board, a trial de novo may not be held. The matter shall be considered on the record compiled before the board, and the findings of fact made by the board may not be set aside by the district court unless the board clearly abused its discretion.

Amended by Chapter 378, 2010 General Session

11-13-310 Termination of impact alleviation contract.

(1) If the project or any part of it or the facilities providing additional project capacity or any part of them, or the output from the project or facilities providing additional project capacity become subject, in addition to the requirements of Section 11-13-302, to ad valorem property taxation or other payments in lieu of ad valorem property taxation, or other form of tax equivalent payments to any candidate which is a party to an impact alleviation contract with respect to the project or facilities providing additional project capacity or is receiving impact alleviation payments or means with respect to the project or facilities providing additional project capacity pursuant to a determination by the board, then the impact alleviation contract or the requirement to make

impact alleviation payments or provide means therefor pursuant to the determination, as the case may be, shall, at the election of the candidate, terminate.

(2) In any event, each impact alleviation contract or determination order shall terminate upon the project, or, in the case of facilities providing additional project capacity, those facilities becoming subject to the provisions of Section 11-13-302, except that no impact alleviation contract or agreement entered by a school district shall terminate because of in lieu ad valorem property tax fees levied under Subsection 11-13-302(2)(b)(i) or because of ad valorem property taxes levied under Section 53F-2-301 for the state minimum school program.

(3) In addition, if the construction of the project, or, in the case of facilities providing additional project capacity, of those facilities, is permanently terminated for any reason, each impact alleviation contract and determination order, and the payments and means required thereunder, shall terminate.

(4) No termination of an impact alleviation contract or determination order may terminate or reduce any liability previously incurred pursuant to the contract or determination order by the candidate beneficiary under it.

(5) If the provisions of Section 11-13-302, or its successor, are held invalid by a court of competent jurisdiction, and no ad valorem taxes or other form of tax equivalent payments are payable, the remaining provisions of this chapter shall continue in operation without regard to the commencement of commercial operation of the last generating unit of that project or of facilities providing additional project capacity.

Amended by Chapter 7, 2023 General Session

11-13-311 Credit for impact alleviation payments against in lieu of ad valorem property taxes -- Federal or state assistance.

(1) In consideration of the impact alleviation payments and means provided by the project entity or other public agency pursuant to the contracts and determination orders, the project entity or other public agency, as the case may be, shall be entitled to a credit against the fees paid in lieu of ad valorem property taxes as provided by Section 11-13-302, ad valorem property or other taxation by, or other payments in lieu of ad valorem property taxation or other form of tax equivalent payments required by any candidate which is a party to an impact alleviation contract or board order.

(2) Each candidate may make application to any federal or state governmental authority for any assistance that may be available from that authority to alleviate the impacts to the candidate. To the extent that the impact was attributable to the project or to the facilities providing additional project capacity, any assistance received from that authority shall be credited to the alleviation obligation with respect to the project or the facilities providing additional project capacity, as the case may be, in proportion to the percentage of impact attributable to the project or facilities providing additional project capacity, but in no event shall the candidate realize less revenues than would have been realized without receipt of any assistance.

(3) With respect to school districts the fee in lieu of ad valorem property tax for the state minimum school program required to be paid by the project entity or other public agency under Subsection 11-13-302(2)(b)(i) shall be treated as a separate fee and does not affect any credits for alleviation payments received by the school districts under Subsection 11-13-302(2)(b)(i), or Sections 11-13-305 and 11-13-306.

Amended by Chapter 378, 2010 General Session

11-13-312 Exemption from privilege tax.

Title 59, Chapter 4, Privilege Tax, does not apply to a project, or any part of it, or to facilities providing additional project capacity, or any part of them, or to the possession or other beneficial use of a project or facilities providing additional project capacity as long as there is a requirement to make impact alleviation payments, fees in lieu of ad valorem property taxes, or ad valorem property taxes, with respect to the project or facilities providing additional project capacity pursuant to this chapter.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-313 Arbitration of disputes.

Any impact alleviation contract may provide that disputes between the parties will be submitted to arbitration pursuant to Title 78B, Chapter 11, Utah Uniform Arbitration Act.

Amended by Chapter 3, 2008 General Session

11-13-314 Eminent domain authority of certain commercial project entities.

(1)

(a) Subject to Subsections (2) and (3), a commercial project entity that existed as a project entity before January 1, 1980, may, with respect to a project or facilities providing additional project capacity in which the commercial project entity has an interest, acquire property within the state through eminent domain, subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.

(b) Subsection (1)(a) may not be construed to:

(i) give a project entity the authority to acquire water rights by eminent domain; or

(ii) diminish any other authority a project entity may claim to have under the law to acquire property by eminent domain.

(2) Each project entity that intends to acquire property by eminent domain under Subsection (1)(a) shall comply with the requirements of Section 78B-6-505.

(3) A commercial project entity that has not taken a final vote to approve the filing of an eminent domain action as described in Subsection 78B-6-504(2)(c) prior to November 10, 2021, may not exercise the authority described in Subsection (1).

Amended by Chapter 7, 2021 Special Session 2

11-13-316 Project entity oversight.

(1) Notwithstanding any other provision of law, a project entity is a political subdivision that is subject to the authority of the legislative auditor general pursuant to Utah Constitution, Article VI, Section 33, and Section 36-12-15.

(2) A project entity shall comply with Title 63G, Chapter 6a, Utah Procurement Code, unless the governing board of the project entity adopts policies for procurement that enable the project entity to efficiently fulfill the project entity's responsibilities under the project entity's organization agreement.

(3) If a project entity does not adopt policies for procurement under Subsection (2), then for purposes of Title 63G, Chapter 6a, Utah Procurement Code:

(a) the project entity is a local government procurement unit, as defined in Section 63G-6a-103; and

(b) the governing board is a procurement official, as defined in Section 63G-6a-103.

(4) A project entity shall comply with Title 52, Chapter 4, Open and Public Meetings Act.

Amended by Chapter 21, 2023 General Session

11-13-317 Submitting to the Project Entity Oversight Committee.

Within a reasonable time of the information being available, a project entity shall submit to the Project Entity Oversight Committee, created in Section 63C-26-201, publicly available financial and operating information relating to the project entity, including:

(1) a copy of the project entity's audited financial statements for each fiscal year;

(2) a list of the project entity's financing sources, including:

(a) outstanding bond issuances; and

(b) future planned bond issuances; and

(3) a statement describing the project entity's net charges to its power purchasers for each fiscal year, including:

(a) a description of how those charges vary from the project entity's previous fiscal year charges; and

(b) a statement describing the project entity's annual power sales of the previous fiscal year broken down by entity, including the amount of power sold.

Enacted by Chapter 322, 2022 General Session

11-13-318 Notice of decommissioning or disposal of project entity assets.

(1) As used in this section:

(a) "Disposal" means the sale, transfer, or other disposition of a project entity's assets.

(b)

(i) "Project entity asset" means a project entity's:

(A) land;

(B) buildings; or

(C) essential equipment, including turbines, generators, transformers, and transmission lines.

(ii) "Project entity asset" does not include an asset that is not essential for the generation of electricity in the project entity's coal-powered electrical generation facility.

(2) A project entity shall provide a notice of decommissioning or disposal to the Legislative Management Committee at least 180 days before:

(a) the disposal of any project entity assets; or

(b) the decommissioning of the project entity's coal-powered electrical generation facility.

(3) The notice of decommissioning or disposal described in Subsection (2) shall include:

(a) the date of the intended decommissioning or disposal;

(b) a description of the project entity's coal-powered electrical generation facility intended for decommissioning or any project entity asset intended for disposal; and

(c) the reasons for the decommissioning or disposal.

(4) A project entity may not intentionally prevent the functionality of the project entity's existing coal-powered electrical generation facility.

(5) Notwithstanding the requirements in Subsections (2) through (4), a project entity may take any action necessary to transition to a new electrical generation facility powered by natural gas, hydrogen, or a combination of natural gas and hydrogen, including any action that has been approved by a permitting authority.

Enacted by Chapter 195, 2023 General Session

11-13-319 Project entity continued operation study.

(1) The Office of Energy Development shall conduct a study to:
  (a) evaluate all environmental regulations and permits to be filed to continue operation of a project entity's existing coal-powered electrical generation facility;
  (b) identify best available technology to implement additional environmental controls for continued operation of a project entity's existing coal-powered electrical generation facility;
  (c) identify the transmission capacity of the project entity;
  (d) coordinate with state and local economic development agencies to evaluate economic opportunities for continued use of a project entity's existing coal-powered electrical generation facility;
  (e) analyze the financial assets and liabilities of a project entity;
  (f) identify the best interests of the local economies, local tax base, and the state in relation to a project entity;
  (g) evaluate the viability of the continued operation of a project entity's existing coal-powered electrical generation facility:
    (i) under ownership of the state; or
    (ii) in a public private partnership; and
  (h) identify the steps necessary for the state to obtain first right of refusal for ownership of a project entity's existing coal-powered electrical generation facility.
(2) A project entity shall cooperate and provide timely assistance and information to the Office of Energy Development in the preparation of the study described in Subsection (1).
(3) The Office of Energy Development shall report to the Public Utilities, Energy, and Technology Interim Committee and the Legislative Management Committee on or before the Public Utilities, Energy, and Technology Interim Committee's September 2023 interim committee meeting.
(4) The report described in Subsection (3) shall include:
  (a) the results of the study described in Subsection (1);
  (b) recommendations for continued operation of a project entity's existing coal-powered electrical generation facility;
  (c) environmental controls that need to be implemented for the continued operation of a project entity's existing coal-powered electrical generation facility;
  (d) recommendations to increase local and state tax revenue through the continued operation of a project entity's existing coal-powered electrical generation facility; and
  (e) recommendations for legislation to be introduced in the 2024 General Session to enable the continued operation of a project entity's existing coal-powered electrical generation facility.

Enacted by Chapter 195, 2023 General Session

Part 4
Governance

11-13-401 Application.

(1) Except as provided in Subsection (2), and notwithstanding any other provision of law, this part applies to a governing authority created under this chapter.
(2) This part does not apply to:
  (a) a taxed interlocal entity, as defined in Section 11-13-602; or

(b) a project entity.

Amended by Chapter 382, 2016 General Session

11-13-402 Governance -- Powers of governing authority.

(1) If an interlocal agreement does not establish an interlocal entity to conduct the joint or cooperative undertaking, the joint or cooperative undertaking shall be administered by a joint administrator established in accordance with the interlocal agreement and Section 11-13-207.

(2) If an interlocal entity has been established to conduct the joint or cooperative action, the interlocal entity shall be governed by a governing board as established in the interlocal agreement.

(3) A governing board:

(a) shall manage and direct the business and affairs of the interlocal entity; and

(b) has and may exercise a power or perform a function as provided in the interlocal agreement and this chapter that is necessary to accomplish the interlocal entity's purpose unless otherwise specified by this chapter or the interlocal agreement, including the following:

(i) delegate to an interlocal entity employee or officer the authority to exercise a power or to perform a function of the interlocal entity;

(ii) control or direct litigation to which the interlocal entity is a party or in which it is otherwise involved;

(iii) adopt bylaws for the orderly functioning of the governing board;

(iv) adopt and enforce rules and regulations for the orderly operation of the interlocal entity or for carrying out the interlocal entity's purposes; and

(v) establish and impose fees for services provided by the interlocal entity.

(4) Each member of a governing board has and owes a fiduciary duty to the interlocal entity at large.

(5)

(a) Unless otherwise provided in the interlocal agreement, a governing board:

(i) shall elect from its board members a chair; and

(ii) subject to Subsection (5)(b), may elect other officers as the board considers appropriate.

(b)

(i) One person may not hold the office of chair and treasurer, treasurer and clerk, or clerk and chair.

(ii) Unless otherwise provided in the interlocal agreement:

(A) an officer serves at the pleasure of the governing board; and

(B) the governing board may designate a set term for each office.

Enacted by Chapter 265, 2015 General Session

11-13-403 Annual compensation -- Per diem compensation -- Participation in group insurance plan -- Reimbursement of expenses.

(1)

(a) A member of a governing authority may receive compensation for service on the governing authority, as determined by the governing authority.

(b) The governing authority determining the amount of compensation under this Subsection (1) shall:

(i) establish the compensation amount as part of the interlocal entity's or joint or cooperative undertaking's annual budget adoption;

(ii) specifically identify the annual compensation of each governing authority member in the tentative budget; and

(iii) approve the annual compensation at the public meeting at which the budget is adopted.

(c)

(i) If authorized by the interlocal agreement and as determined by the governing authority, a member of the governing authority may participate in a group insurance plan provided to employees of the interlocal entity on the same basis as employees of the interlocal entity.

(ii) The amount that the interlocal entity pays to provide a governing authority member with coverage under a group insurance plan shall be included as part of the member's compensation for purposes of Subsection (1)(b).

(d) The amount that an interlocal entity pays for employer contributions for Medicare and Social Security, if a member of the governing authority is treated as an employee for federal tax purposes, does not constitute compensation under Subsection (1)(a) or (b).

(e) A governing authority member who is appointed by a public agency may not receive compensation for governing authority service unless the public agency annually approves the governing authority member's receipt of the compensation after an analysis of the duties and responsibilities of service on the governing authority.

(2) In addition to the compensation provided under Subsection (1), the governing authority may elect to allow a member to receive per diem and travel expenses for up to 12 meetings or activities per year in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; or

(c) a rule adopted by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Enacted by Chapter 265, 2015 General Session

11-13-404 Quorum of the governing authority -- Meetings of the governing authority.

(1)

(a)

(i) Except as provided in Subsection (1)(b) or in the interlocal agreement creating the interlocal entity or joint or cooperative undertaking, a majority of the governing authority constitutes a quorum for the transaction of governing authority business, and action by a majority of a quorum constitutes action of the governing authority.

(ii) An otherwise valid action of the governing authority is not made invalid because of the method chosen by the governing authority to take or memorialize the action.

(b) Except as limited or required by the interlocal agreement creating the interlocal entity or joint or cooperative undertaking, a governing authority may adopt bylaws or other rules that require more than a majority to constitute a quorum or that require action by more than a majority of a quorum to constitute action by the governing authority.

(2) The governing authority shall hold such regular and special meetings as the governing authority determines at a location that the governing authority determines.

(3)

(a) Each meeting of the governing authority shall comply with Title 52, Chapter 4, Open and Public Meetings Act, regardless of whether an interlocal entity or joint or cooperative undertaking is supported in whole or part by tax revenue.

(b) Subject to Title 52, Chapter 4, Open and Public Meetings Act, a governing authority shall:

(i) adopt rules of order and procedure to govern a public meeting of the governing authority;

(ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (3)(b)(i); and
(iii) make the rules of order and procedure described in Subsection (3)(b)(i) available to the public:
(A) at each meeting of the governing authority; and
(B) on the interlocal entity or joint or cooperative undertaking's public website, if available.

Enacted by Chapter 265, 2015 General Session

Part 5
Fiscal Procedures for Interlocal Entities

11-13-501 Definitions.

As used in this part:

(1) "Appropriation" means an allocation of money by the governing board in a budget for a specific purpose.
(2) "Budget" means a plan of financial operations for a fiscal year that embodies estimates of proposed expenditures for given purposes and the proposed means of financing them, and may refer to the budget of a particular fund for which a budget is required by law or may refer collectively to the budgets for all required funds.
(3) "Budget officer" means the person appointed by an interlocal entity governing board to prepare the budget for the interlocal entity.
(4) "Budget year" means the fiscal year for which a budget is prepared.
(5) "Calendar year entity" means an interlocal entity whose fiscal year begins January 1 and ends December 31 of each calendar year as described in Section 11-13-503.
(6) "Current year" means the fiscal year in which a budget is prepared and adopted, and which is the fiscal year immediately preceding the budget year.
(7) "Deficit" means the occurrence when expenditures exceed revenues.
(8) "Enterprise fund" has the meaning provided in generally accepted accounting principles.
(9) "Estimated revenue" means the amount of revenue estimated to be received from all sources during the budget year in each fund for which a budget is being prepared.
(10) "Fiscal year" means the annual period for accounting for fiscal operations in an interlocal entity.
(11) "Fiscal year entity" means an interlocal entity whose fiscal year begins July 1 of each year and ends on June 30 of the following year as described in Section 11-13-503.
(12) "Fund" has the meaning provided in generally accepted accounting principles.
(13) "Fund balance" has the meaning provided in generally accepted accounting principles.
(14) "General fund" has the meaning provided in generally accepted accounting principles.
(15) "Generally accepted accounting principles" means the accounting principles and standards promulgated from time to time by authoritative bodies in the United States.
(16) "Governmental fund" has the meaning provided in generally accepted accounting principles.
(17) "Interfund loan" means a transfer of assets from one fund to another, subject to future repayment.
(18) "Interlocal entity" includes a governmental nonprofit corporation, as that term is defined in Section 11-13a-102.
(19) "Interlocal entity general fund" means the general fund of an interlocal entity.

(20) "Internal service funds" has the meaning provided in generally accepted accounting principles.
(21) "Last completed fiscal year" means the fiscal year immediately preceding the current fiscal year.
(22) "Proprietary fund" means enterprise funds and the internal service funds of an interlocal entity.
(23) "Public funds" means any money or payment collected or received by an interlocal entity, including money or payment for services or goods provided by the interlocal entity.
(24) "Retained earnings" has the meaning provided in generally accepted accounting principles.
(25) "Special fund" means an interlocal entity fund other than the interlocal entity general fund.

Amended by Chapter 441, 2017 General Session

11-13-502 Application -- Conflicts with federal law -- Other applicable law.
(1) This part does not apply to a taxed interlocal entity as defined in Section 11-13-602.
(2) Except as provided in Subsection (1), and notwithstanding any other provision of law, this part governs an interlocal entity's fiscal procedures but only to the extent that the provision does not conflict with or cause an interlocal entity to be noncompliant with federal law.
(3) An interlocal entity is subject to Title 51, Chapter 7, State Money Management Act.

Amended by Chapter 382, 2016 General Session

11-13-503 Fiscal year.
The fiscal year of an interlocal entity shall be, as determined by the governing board:
(1) the calendar year; or
(2) the period from July 1 to the following June 30.

Enacted by Chapter 265, 2015 General Session

11-13-504 Uniform accounting system.
An interlocal entity shall:
(1) establish and maintain the interlocal entity's accounting records, and financial statements prepared from those records, as required by generally accepted accounting principles; and
(2) adopt and implement internal accounting controls in light of the needs and resources of the interlocal entity.

Enacted by Chapter 265, 2015 General Session

11-13-505 Funds and account groups maintained.
An interlocal entity shall establish and maintain, according to its own accounting needs, some or all of the funds and account groups in its system of accounts, as required by generally accepted accounting principles.

Enacted by Chapter 265, 2015 General Session

11-13-506 Budget required for certain funds -- Capital projects fund.
(1) The budget officer shall prepare for each budget year a budget, subject to Section 11-13-507, for each of the following funds, to the extent applicable:
(a) the general fund;
(b) each special revenue fund, as that term is used in generally accepted accounting principles;

(c) each debt service fund, as that term is used in generally accepted accounting principles;
(d) each capital projects fund, as that term is used in generally accepted accounting principles;
(e) each proprietary fund in accordance with Section 11-13-524; and
(f) if the interlocal entity has a local fund, as defined in Section 53-2a-602, the local fund.

(2)
(a) A major capital improvement financed by general obligation bonds, capital grants, or interfund transfers shall use a capital projects fund budget unless the improvement financed is to be used for proprietary type activities.
(b) The interlocal entity shall prepare a separate budget for the term of a capital improvement described in Subsection (2)(a) as well as the annual budget required under Subsection (1).

Enacted by Chapter 265, 2015 General Session

11-13-507 Total of revenues to equal expenditures.

(1) The budget under Section 11-13-506 shall provide a financial plan for the budget year.
(2) Each budget shall specify in tabular form:
(a) estimates of all anticipated revenues; and
(b) all appropriations for expenditures.
(3) The total of the anticipated revenues shall equal the total of appropriated expenditures.

Enacted by Chapter 265, 2015 General Session

11-13-508 Tentative budget to be prepared -- Review by governing body.

(1) On or before the first regularly scheduled meeting of the governing board in November for a calendar year entity and May for a fiscal year entity, the budget officer of an interlocal entity shall prepare for the ensuing year and file with the governing board a tentative budget for each fund for which a budget is required.

(2)
(a) Each tentative budget under Subsection (1) shall provide in tabular form:
(i) actual revenues and expenditures for the last completed fiscal year;
(ii) estimated total revenues and expenditures for the current fiscal year; and
(iii) the budget officer's estimates of revenues and expenditures for the budget year.
(b) The budget officer shall estimate:
(i) the amount of revenue available to serve the needs of each fund;
(ii) the portion to be derived from all sources other than general property taxes; and
(iii) the portion that shall be derived from general property taxes.

(3) The tentative budget, when filed by the budget officer with the governing board, shall contain the estimates of expenditures together with specific work programs and any other supporting data required by this part or requested by the governing board.

(4)
(a) Subject to Subsection (4)(b), the governing board:
(i) shall review, consider, and adopt the tentative budget in any regular meeting or special meeting called for that purpose; and
(ii) may amend or revise the tentative budget in any manner that the board considers advisable prior to the public hearing under Section 11-13-509.
(b) The governing board may not reduce below the legal minimum requirement an appropriation required for debt retirement and interest or reduction of any existing deficits under Section 11-13-513, or otherwise required by law.

(5) If a new interlocal entity is created, the governing board shall:
(a) prepare a budget covering the period from the date of incorporation to the end of the fiscal year;
(b) substantially comply with all other provisions of this part with respect to notices and hearings; and
(c) pass the budget as soon after incorporation as feasible.

Enacted by Chapter 265, 2015 General Session

11-13-509 Hearing to consider adoption -- Notice.
(1) At the meeting at which the tentative budget is adopted, the governing board shall:
(a) establish the time and place of a public hearing to consider its adoption; and
(b) except as provided in Subsection (2), order that notice of the hearing be published, for at least seven days before the day of the hearing, for the interlocal entity's service area, as a class A notice under Section 63G-30-102.
(2) If the budget hearing is held in conjunction with a tax increase hearing, the notice required in Subsection (1)(b):
(a) may be combined with the notice required under Section 59-2-919; and
(b) shall be published in accordance with the advertisement provisions of Section 59-2-919.
(3) Proof that notice was given in accordance with Subsection (1)(b), or (2) is prima facie evidence that notice was properly given.
(4) If a notice required under Subsection (1)(b), or (2) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

Amended by Chapter 435, 2023 General Session

11-13-510 Public hearing on tentatively adopted budget.
At the time and place advertised, or at any time or any place to which the public hearing may be adjourned, the governing board shall:
(1) hold a public hearing on the budgets tentatively adopted; and
(2) give interested persons in attendance an opportunity to be heard on the estimates of revenues and expenditures or any item in the tentative budget of any fund.

Enacted by Chapter 265, 2015 General Session

11-13-511 Continuing authority of governing body.
After the conclusion of the public hearing held in accordance with Section 11-13-510, the governing board:
(1) may:
(a) continue to review the tentative budget;
(b) insert any new item; or
(c) increase or decrease items of expenditure in the tentative budget; and
(2) shall adopt a final budget.

Enacted by Chapter 265, 2015 General Session

11-13-512 Accumulated fund balances -- Limitations -- Excess balances -- Unanticipated excess of revenues -- Reserves for capital projects.

(1)
(a) An interlocal entity may accumulate retained earnings or fund balances, as appropriate, in any fund.
(b) For the interlocal entity general fund only, an accumulated fund balance at the end of a budget year may be used only:
(i) to provide working capital to finance expenditures from the beginning of the budget year until general property taxes or other applicable revenues are collected, subject to Subsection (1)(c);
(ii) to provide a resource to meet emergency expenditures under Section 11-13-521; or
(iii) to cover a pending year-end excess of expenditures over revenues from an unavoidable shortfall in revenues, subject to Subsection (1)(d).
(c) Subsection (1)(b)(i) may not be construed to authorize an interlocal entity to appropriate a fund balance for budgeting purposes, except as provided in Subsection (4).
(d) Subsection (1)(b)(iii) may not be construed to authorize an interlocal entity to appropriate a fund balance to avoid an operating deficit during a budget year except:
(i) as provided under Subsection (4); or
(ii) for emergency purposes under Section 11-13-521.
(2) The accumulation of a fund balance in the interlocal entity general fund may not exceed the greater of:
(a) 100% of the current year's property tax collected by the interlocal entity; or
(b)
(i) 35% of the total interlocal entity general fund revenues for an interlocal entity with an annual interlocal entity general fund budget greater than $100,000; or
(ii) 65% of the total interlocal entity general fund revenues for an interlocal entity with an annual interlocal entity general fund budget equal to or less than $100,000.
(3) If the interlocal entity general fund balance at the close of a fiscal year exceeds the amount permitted under Subsection (2), the interlocal entity shall appropriate the excess in the manner provided in Section 11-13-513.
(4) Any interlocal entity general fund balance in excess of 5% of the total revenues of the interlocal entity general fund may be utilized for budget purposes.
(5)
(a) Within a capital projects fund the governing board may, in a budget year, appropriate from estimated revenue or a fund balance to a reserve account for capital projects for the purpose of financing future specific capital projects, including new construction, capital repairs, replacement, and maintenance, under a formal long-range capital plan adopted by the governing board.
(b) An interlocal entity may allow a reserve amount under Subsection (5)(a) to accumulate from year to year until the accumulated total is sufficient to permit economical expenditure for the specified purposes.
(c) An interlocal entity may disburse from a reserve account under Subsection (5)(a) only by a budget appropriation adopted in the manner provided by this part.
(d) Expenditures from a reserve account described in Subsection (5)(a) shall conform to all requirements of this part relating to execution and control of budgets.

Amended by Chapter 52, 2021 General Session

11-13-513 Appropriations not to exceed estimated expendable revenue -- Appropriations for existing deficits.

(1) The governing board of an interlocal entity may not make an appropriation in the final budget of a fund in excess of the estimated expendable revenue for the budget year of the fund.
(2) If there is a deficit fund balance in a fund at the close of the last completed fiscal year, the governing body of an interlocal entity shall include an item of appropriation for the deficit in the current budget of the fund equal to:
  (a) at least 5% of the total revenue of the fund in the last completed fiscal year; or
  (b) if the deficit is equal to less than 5% of the total revenue of the fund in the last completed fiscal year, the entire amount of the deficit.

Amended by Chapter 353, 2016 General Session

11-13-514 Adoption of final budget -- Certification and filing.
(1) Except as provided in Sections 59-2-919 through 59-2-923, the governing board of an interlocal entity shall by resolution adopt prior to the beginning of the fiscal year a budget for the ensuing fiscal year for each fund for which a budget is required under this part.
(2) The interlocal entity's budget officer shall file within 30 days after adoption the final budget with the members and the state auditor.

Enacted by Chapter 265, 2015 General Session

11-13-515 Budgets in effect for budget year.
(1) Upon final adoption, each budget shall be in effect for the budget year, subject to amendment as provided in this part.
(2) An interlocal entity shall file a copy of the adopted budgets in the interlocal entity's office and make it available to the public during regular business hours.

Enacted by Chapter 265, 2015 General Session

11-13-516 Purchasing procedures.
An interlocal entity shall make an expenditure or incur an obligation according to the purchasing procedures established by an interlocal entity by resolution and only by order or approval of a person duly authorized.

Enacted by Chapter 265, 2015 General Session

11-13-517 Expenditures or encumbrances in excess of appropriations prohibited.
An interlocal entity may not make or incur an expenditure or encumbrance in excess of total appropriations in the budget as adopted or as subsequently amended, except as provided in Section 11-13-521.

Enacted by Chapter 265, 2015 General Session

11-13-518 Transfer of appropriation balance between accounts in same fund.
(1) The governing board of an interlocal entity shall establish policies for, subject to Subsection (2), the transfer of any unencumbered or unexpended appropriation balance or portion of the balance from one account in a fund to another account within the same fund.
(2) The governing board may not reduce below the minimums required an appropriation for debt retirement and interest, reduction of deficit, or other appropriation required by law or covenant.

Enacted by Chapter 265, 2015 General Session

11-13-519 Review of individual governmental fund budgets -- Hearing.

(1) The governing board of an interlocal entity may, at any time during the budget year, review an individual budget of the governmental fund for the purpose of determining if the total of an individual budget should be increased.

(2) If the governing board decides that the budget total of one or more governmental funds described in Subsection (1) should be increased, it shall hold a public hearing on the increase in accordance with the procedures established in Sections 11-13-509 and 11-13-510.

Enacted by Chapter 265, 2015 General Session

11-13-520 Amendment and increase of individual fund budgets.

(1) After holding the public hearing required under Section 11-13-519, the governing board may, by resolution, amend the budgets of the funds proposed to be increased, so as to make all or part of the increases, both estimated revenues and appropriations, which were the proper subject of consideration at the hearing.

(2) The governing board may not adopt an amendment to the current year budgets of any of the funds established in Section 11-13-506 after the last day of the fiscal year.

Enacted by Chapter 265, 2015 General Session

11-13-521 Emergency expenditures.

The governing board of an interlocal entity may, by resolution, amend a budget and authorize an expenditure of money that results in a deficit in the interlocal entity general fund balance if:

(1) the board determines that:

(a) an emergency exists; and

(b) the expenditure is reasonably necessary to meet the emergency; and

(2) the expenditure is used to meet the emergency.

Enacted by Chapter 265, 2015 General Session

11-13-522 Lapse of appropriations -- Exceptions.

All unexpended or unencumbered appropriations, except capital projects fund appropriations, lapse at the end of the budget year to the respective fund balance.

Enacted by Chapter 265, 2015 General Session

11-13-523 Loans by one fund to another.

(1) Subject to this section, restrictions imposed by bond covenants, restrictions in Section 53-2a-605, or other controlling regulations, the governing board of an interlocal entity may authorize an interfund loan from one fund to another.

(2) An interfund loan under Subsection (1) shall be in writing and specify the terms and conditions of the loan, including the:

(a) effective date of the loan;

(b) name of the fund loaning the money;

(c) name of the fund receiving the money;

(d) amount of the loan;
(e) subject to Subsection (3), term of and repayment schedule for the loan;
(f) subject to Subsection (4), interest rate of the loan;
(g) method of calculating interest applicable to the loan;
(h) procedures for:
(i) applying interest to the loan; and
(ii) paying interest on the loan; and
(i) other terms and conditions the governing board determines applicable.
(3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.
(4)
(a) In determining the interest rate of the loan specified under Subsection (2)(f), the governing board shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.
(b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):
(i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or
(ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:
(A) the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or
(B) a United States Treasury note of a comparable term.
(5)
(a) For an interfund loan under Subsection (1), the governing board shall:
(i) hold a public hearing;
(ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed terms and conditions of the interfund loan under Subsection (2);
(iii) provide notice of the public hearing in the same manner as required under Section 11-13-509 as if the hearing were a budget hearing; and
(iv) authorize the interfund loan by resolution in a public meeting.
(b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the governing board for the current fiscal year.
(6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:
(a) a loan from the interlocal entity general fund to any other fund of the interlocal entity; or
(b) a short-term advance from the interlocal entity's cash and investment pool to an individual fund that is repaid by the end of the fiscal year.

Enacted by Chapter 265, 2015 General Session

11-13-524 Operating and capital budgets for proprietary funds.
(1)
(a) As used in this section, "operating and capital budget" means a plan of financial operation for a proprietary or other required special fund, including estimates of operating and capital revenues and expenses for the budget year.

(b) Except as otherwise expressly provided in this section, the other provisions of this part governing budgets and fiscal procedures and controls do not apply to the operating and capital budgets provided for in this section.

(2) Subject to Subsection (3), the governing board shall adopt for the ensuing budget year an operating and capital budget for each proprietary fund and shall adopt the type of budget for other special funds, if applicable, under generally accepted accounting principles.

(3) Operating and capital budgets shall be adopted and administered in the following manner:

(a) On or before the first regularly scheduled meeting of the governing board, in November for a calendar year entity or May for a fiscal year entity, the budget officer shall prepare for the ensuing fiscal year, and file with the governing board, a tentative operating and capital budget for each proprietary fund and for other required special funds, together with any supporting data required by the board.

(b) The governing board:

(i) shall adopt the tentative operating and capital budget in a regular meeting or special meeting called for that purpose; and

(ii) may amend or revise the tentative operating and capital budget in any manner that the board considers advisable prior to a public hearing.

(c) The governing board shall comply with the notice and hearing requirements of Subsection (3) and Sections 11-13-509 through 11-13-511 in approving a final operating and capital budget.

(d) If the tentative operating and capital budget approved by the governing board for a proprietary fund includes appropriations that are not reasonable allocations of costs between funds or that provide funds to a member without consideration, the governing board shall, at least seven days before the day of the hearing, mail to each interlocal entity customer, a written notice stating:

(i) the date, time, and place of the operating and capital budget hearing; and

(ii) the purpose of the operating and capital budget hearing, including:

(A) the enterprise fund from which money is being transferred;

(B) the amount being transferred; and

(C) the fund or member to which the money is being transferred.

(e)

(i) The governing board shall adopt an operating and capital budget for each proprietary fund for the ensuing fiscal year before the beginning of each fiscal year.

(ii) A copy of the operating and capital budget as finally adopted for each proprietary fund shall be:

(A) filed in the interlocal entity's office and with each member; and

(B) available to the public during regular business hours.

(iii) The interlocal entity shall also file a copy of the operating and capital budget with the state auditor within 30 days after adoption.

(f)

(i) Upon final adoption, the operating and capital budget is in effect for the budget year, subject to later amendment.

(ii) During the budget year, the governing board may, in any regular meeting or special meeting called for that purpose, review an operating and capital budget for the purpose of determining if the total of the budget should be increased.

(iii) If the governing board decides that the operating and capital budget total of one or more proprietary funds should be increased, the board shall follow the procedures established in Section 11-13-525.

(4) An interlocal entity shall maintain a proprietary fund or other required special fund in compliance with Sections 11-13-501 through 11-13-505, 11-13-516, 11-13-518, and 11-13-526 through 11-13-532.

Enacted by Chapter 265, 2015 General Session

11-13-525 Increase in appropriations for operating and capital budget fund -- Notice.

(1) The total budget appropriation of a fund described in Section 11-13-524 may be increased by resolution of the governing board at a regular meeting, or special meeting called for that purpose, if written notice of the time, place, and purpose of the meeting has been mailed or delivered to all members of the governing board at least five days before the day of the meeting.
(2) The notice may be waived in writing or verbally during attendance at the meeting by a member of the governing board.

Enacted by Chapter 265, 2015 General Session

11-13-526 Deposit of interlocal entity funds -- Commingling with personal funds prohibited -- Suspension from office.

(1) The treasurer of an interlocal entity shall promptly deposit all interlocal entity funds in the appropriate bank accounts of the interlocal entity.
(2) It is unlawful for a person to commingle interlocal entity funds with the person's own money.
(3) If an interlocal entity has reason to believe that an officer or employee has misused public funds, the interlocal entity shall place the employee or officer on administrative leave with or without pay, pending completion of any investigation.

Enacted by Chapter 265, 2015 General Session

11-13-527 Quarterly financial reports required.

The interlocal entity clerk or other delegated person shall prepare and present to the governing board a detailed quarterly financial report showing the financial position and operations of the interlocal entity for that quarter and the year-to-date status.

Enacted by Chapter 265, 2015 General Session

11-13-528 Annual financial reports -- Audit reports.

(1) Within 180 days after the close of each fiscal year, the interlocal entity shall prepare an annual financial report in conformity with generally accepted accounting principles as prescribed in the Uniform Accounting Manual of the Utah State Auditor.
(2) The requirement under Subsection (1) may be satisfied by presentation of the audit report furnished by the auditor.
(3) The interlocal entity shall:
  (a) file copies of the annual financial report or the audit report furnished by the auditor with the state auditor; and
  (b) maintain the report as a public document in the interlocal entity office.

Enacted by Chapter 265, 2015 General Session

11-13-529 Audits required.

(1) An interlocal entity shall facilitate an audit of the interlocal entity in accordance with Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(2) The governing board shall appoint an auditor for the purpose of complying with the requirements of this section and with Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Enacted by Chapter 265, 2015 General Session

11-13-530 Interlocal entity may expand uniform procedures -- Limitation.

(1) Subject to Subsection (2), an interlocal entity may expand a uniform accounting, budgeting, or reporting procedure required by generally accepted accounting principles, to better serve the needs of the interlocal entity.

(2) An interlocal entity may not deviate from or alter the basic prescribed classification systems for the identity of funds and accounts required by generally accepted accounting principles.

Enacted by Chapter 265, 2015 General Session

11-13-531 Imposing or increasing a fee for service provided by interlocal entity.

(1) The governing board shall fix the rate for a service or commodity provided by the interlocal entity.

(2)

(a) Before imposing a new fee or increasing an existing fee for a service provided by an interlocal entity, an interlocal entity governing board shall first hold a public hearing at which interested persons may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (2)(a) shall be held on a weekday in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (2) may be combined with a public hearing on a tentative budget required under Section 11-13-510.

(d) Except to the extent that this section imposes more stringent notice requirements, the governing board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (2)(a).

(3)

(a) An interlocal entity board shall give notice of a hearing under Subsection (2)(a):

(i) as provided in Subsection (3)(b)(i) or (c); and

(ii) for at least 20 days before the day of the hearing on the Utah Public Notice Website, created by Section 63A-16-601.

(b)

(i) Except as provided by Subsection (3)(c)(i), the notice required under Subsection (2)(a) shall be published:

(A) in a newspaper or combination of newspapers of general circulation in the interlocal entity, if there is a newspaper or combination of newspapers of general circulation in the interlocal entity; or

(B) if there is no newspaper or combination of newspapers of general circulation in the interlocal entity, the interlocal entity board shall post at least one notice per 1,000 population within the interlocal entity, at places within the interlocal entity that are most likely to provide actual notice to residents within the interlocal entity.

(ii) The notice described in Subsection (3)(b)(i)(A):
(A) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;
(B) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear;
(C) whenever possible, shall appear in a newspaper that is published at least one day per week;
(D) shall be in a newspaper or combination of newspapers of general interest and readership in the interlocal entity, and not of limited subject matter; and
(E) shall be run once each week for the two weeks preceding the hearing.
(iii) The notice described in Subsections (3)(a)(ii) and (3)(b)(i) shall state that the interlocal entity board intends to impose or increase a fee for a service provided by the interlocal entity and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.
(c)
(i) In lieu of providing notice under Subsection (3)(b)(i), the interlocal entity governing board may give the notice required under Subsection (2)(a) by mailing the notice to a person within the interlocal entity's service area who:
(A) will be charged the fee for an interlocal entity's service, if the fee is being imposed for the first time; or
(B) is being charged a fee, if the fee is proposed to be increased.
(ii) Each notice under Subsection (3)(c)(i) shall comply with Subsection (3)(b)(iii).
(iii) A notice under Subsection (3)(c)(i) may accompany an interlocal entity bill for an existing fee.
(d) If the hearing required under this section is combined with the public hearing required under Section 11-13-510, the notice requirements under this Subsection (3) are satisfied if a notice that meets the requirements of Subsection (3)(b)(iii) is combined with the notice required under Section 11-13-509.
(e) Proof that notice was given as provided in Subsection (3)(b) or (c) is prima facie evidence that notice was properly given.
(f) If no challenge is made to the notice given of a public hearing required by Subsection (2) within 30 days after the date of the hearing, the notice is considered adequate and proper.
(4) After holding a public hearing under Subsection (2)(a), a governing board may:
(a) impose the new fee or increase the existing fee as proposed;
(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or
(c) decline to impose the new fee or increase the existing fee.
(5) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after May 12, 2015.
(6) An interlocal entity that accepts an electronic payment may charge an electronic payment fee.

Amended by Chapter 84, 2021 General Session
Amended by Chapter 345, 2021 General Session

11-13-532 Residential fee credit.
(1) An interlocal entity may create a fee structure under this chapter that permits:

(a) a home owner or residential tenant to file for a fee credit for a fee charged by the interlocal entity, if the credit is based on:
(i) the home owner's annual income; or
(ii) the residential tenant's annual income; or
(b) an owner of federally subsidized housing to file for a credit for a fee charged by the interlocal entity.
(2) If an interlocal entity permits a person to file for a fee credit under Subsection (1)(a), the interlocal entity shall make the credit available to:
(a) a home owner; and
(b) a residential tenant.

Enacted by Chapter 265, 2015 General Session

Part 6
Taxed Interlocal Entities

11-13-601 Title.
This part is known as "Taxed Interlocal Entities."

Enacted by Chapter 382, 2016 General Session

11-13-602 Definitions.
As used in this part:
(1) "Asset" means funds, money, an account, real or personal property, or personnel.
(2)
(a) "Associated entity" means a taxed interlocal entity that adopts a segment's organizing resolution.
(b) "Associated entity" does not include any other segment.
(3) "Fiduciary duty" means a duty expressly designated as a fiduciary duty of:
(a) a director or an officer of a taxed interlocal entity in:
(i) the organization agreement of the taxed interlocal entity; or
(ii) an agreement executed by the director or the officer and the taxed interlocal entity; or
(b) a director or an officer of a segment in:
(i) the organizing resolution of the segment; or
(ii) an agreement executed by the director or the officer and the segment.
(4) "Governing body" means the body established in an organizing resolution to govern a segment.
(5) "Governmental law" means:
(a)Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;
(b)Title 63A, Chapter 3, Division of Finance;
(c)Title 63G, Chapter 6a, Utah Procurement Code;
(d) a law imposing an obligation on a taxed interlocal entity similar to an obligation imposed by a law described in Subsection (5)(a), (b), or (c);
(e) an amendment to or replacement or renumbering of a law described in Subsection (5)(a), (b), (c), or (d); or
(f) a law superseding a law described in Subsection (5)(a), (b), (c), or (d).

(6) "Indexed office" means the address identified under Subsection 63G-7-401(5)(a)(i) by a segment's associated entity in the associated entity's statement described in Subsection 63G-7-401(5).
(7) "Organization agreement" means an agreement, as amended, that creates a taxed interlocal entity.
(8) "Organizing resolution" means a resolution described in Subsection 11-13-604(1) that creates a segment.
(9) "Principal county" means the county in which the indexed office of a segment's associated entity is located.
(10) "Project" means:
(a) the same as that term is defined in Section 11-13-103; or
(b) facilities, improvements, or contracts undertaken by a taxed interlocal entity in accordance with Subsection 11-13-204(2).
(11) "Public asset" means:
(a) an asset used by a public entity;
(b) tax revenue;
(c) state funds; or
(d) public funds.
(12) "Segment" means a segment created in accordance with Section 11-13-604.
(13) "Taxed interlocal entity" means:
(a) a project entity that:
(i) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;
(ii) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than:
(A) a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the project entity; or
(B) a grant that is subject to accountability requirements and that the project entity receives for purposes related to a Utah interlocal energy hub, including research and development of technology, financing, construction, installation, operation, and other actions that the project entity may take with respect to a project; and
(iii) does not receive, expend, or have the authority to compel payment from tax revenue; or
(b) an interlocal entity that:
(i) was created before 1981 for the purpose of providing power supply at wholesale to its members;
(ii) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than:
(A) a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; or
(B) a loan, grant, guaranty, transferable tax credit, cost-sharing arrangement, or other funding arrangement for an advanced nuclear power facility, as defined in 26 U.S.C. Sec. 45J(d), for an advanced nuclear reactor, as defined in 42 U.S.C. Sec. 16271(b)(1), or for an advanced nuclear energy facility that is eligible for a guarantee under 42 U.S.C. Sec. 16513; and
(iii) does not receive, expend, or have the authority to compel payment from tax revenue.
(14)
(a) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.

(b) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection (14)(a), individually.
(15) "Utah interlocal energy hub" means project entity-owned facilities that:
(a) are located within the state; and
(b) facilitate the coordination of resources and participants in a multi-county or interstate region for:
(i) the generation of energy, including with hydrogen fuel;
(ii) the transmission of energy;
(iii) energy storage, including compressed air energy storage;
(iv) producing environmental benefits; or
(v) the production, storage, or transmission of fuel, including hydrogen fuel.

Amended by Chapter 354, 2020 General Session
Amended by Chapter 381, 2020 General Session

11-13-603 Taxed interlocal entity.
(1) Except for purposes of an audit, examination, investigation, or review by the legislative auditor general as described in Subsection (8) and notwithstanding any other provision of law:
(a) the use of an asset by a taxed interlocal entity does not constitute the use of a public asset;
(b) a taxed interlocal entity's use of an asset that was a public asset before the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset;
(c) an official of a project entity is not a public treasurer; and
(d) a taxed interlocal entity's governing board shall determine and direct the use of an asset by the taxed interlocal entity.
(2)
(a) A taxed interlocal entity that is not a project entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.
(b) A project entity is subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code, to the extent described in Section 11-13-316.
(3)
(a) A taxed interlocal entity is not a participating local entity as defined in Section 67-3-12.
(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:
(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including:
(A) the taxed interlocal entity's statement of net position as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; or
(B) financial statements that are equivalent to the financial statements described in Subsection (3)(b)(i)(A) and, at the time the financial statements were created, were in compliance with generally accepted accounting principles that are applicable to taxed interlocal entities; and
(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.
(c) The taxed interlocal entity shall provide the information described in Subsection (3)(b) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing board the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (3)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:
(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and
(ii) the information described in Subsection (3)(b)(i) or (ii) does not constitute public financial information as defined in Section 67-3-12.

(4)
(a) A taxed interlocal entity's governing board is not a governing board as defined in Section 51-2a-102.
(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(5) Notwithstanding any other provision of law, a taxed interlocal entity is not subject to the following provisions:
(a)Part 4, Governance;
(b)Part 5, Fiscal Procedures for Interlocal Entities;
(c) Subsection 11-13-204(1)(a)(i) or (ii)(J);
(d) Subsection 11-13-206(1)(f);
(e) Subsection 11-13-218(5)(a);
(f) Section 11-13-225;
(g) Section 11-13-226; or
(h) Section 53-2a-605.

(6)
(a) In addition to having the powers described in Subsection 11-13-204(1)(a)(ii), a taxed interlocal entity may, for the regulation of the entity's affairs and conduct of its business, adopt, amend, or repeal bylaws, policies, or procedures.
(b) Nothing in Part 4, Governance, or Part 5, Fiscal Procedures for Interlocal Entities, may be construed to limit the power or authority of a taxed interlocal entity.

(7)
(a) A governmental law enacted after May 12, 2015, and on or before November 10, 2021, is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity that is a project entity unless the governmental law expressly states the section of governmental law to be applicable to and binding upon the taxed interlocal entity with the following words: "[Applicable section or subsection number] constitutes an exception to Subsection 11-13-603(7)(a) and is applicable to and binding upon a taxed interlocal entity."
(b) A governmental law enacted after May 12, 2015, is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity that is an energy services interlocal entity unless the governmental law expressly states the section of governmental law to be applicable to and binding upon the energy services interlocal entity with the following words: "[Applicable section or subsection number] constitutes an exception to Subsection 11-13-603(7)(a) and is applicable to and binding upon an energy services interlocal entity."
(c) Sections 11-13-601 through 11-13-608 constitute an exception to Subsections (7)(a) and (7)(b) and are applicable to and binding upon a taxed interlocal entity.

(8) Notwithstanding any other provision of law, a taxed interlocal entity that is a project entity is a political subdivision that is subject to the authority of the legislative auditor general pursuant to Utah Constitution, Article VI, Section 33, and Section 36-12-15.

Amended by Chapter 21, 2023 General Session

11-13-604 Segments authorized.

(1)
(a)
(i) If a taxed interlocal entity is a project entity, and to the extent authorized in a taxed interlocal entity's organization agreement or by a majority of the public entities that are parties to a taxed interlocal entity's organization agreement , the governing board of a taxed interlocal entity may by resolution adopted on or before November 10, 2021, establish or provide for the establishment of one or more segments that have separate rights, powers, privileges, authority or by a majority of the public entities that are parties to a taxed interlocal entity's organization agreement , or duties with respect to, as specified in the segment's organizing resolution, the taxed interlocal entity's:
(A) property;
(B) assets;
(C) projects;
(D) undertakings;
(E) opportunities;
(F) actions;
(G) debts;
(H) liabilities;
(I) obligations; or
(J) any combination of the items listed in Subsections (1)(a)(i)(A) through (H).
(ii) If a taxed interlocal entity is not a project entity, and to the extent authorized in a taxed interlocal entity's organization agreement, the governing board of a taxed interlocal entity may by resolution establish or provide for the establishment of one or more segments that have separate rights, powers, privileges, authority, or by a majority of the public entities that are parties to a taxed interlocal entity's organization agreement, or duties with respect to, as specified in the segment's organizing resolution, the taxed interlocal entity's:
(A) property;
(B) assets;
(C) projects;
(D) undertakings;
(E) opportunities;
(F) actions;
(G) debts;
(H) liabilities;
(I) obligations; or
(J) any combination of the items listed in Subsections (1)(a)(ii)(A) through (H).
(b) To the extent provided in the organization agreement of a segment's associated entity, a segment may have a separate purpose from the associated entity.
(c) The name of a segment shall:
(i) contain the name of the segment's associated entity; and
(ii) be distinguishable from the name of any other segment established by the associated entity.
(2) Notwithstanding any other provision of law, the debts, liabilities, and obligations incurred, contracted for, arising out of the conduct of or otherwise existing with respect to a particular segment are only enforceable or chargeable against the assets of that segment, and not against the assets of the segment's associated entity generally or any other segment established by the segment's associated entity if:
(a) the segment is established by or in accordance with an organizing resolution;

(b) separate records are maintained for the segment to the extent necessary to avoid the segment's records constituting a fraud upon the segment's creditors;
(c) the assets associated with the segment are held and accounted for separately from the assets of any other segment established by the associated entity to the extent necessary to avoid the segment's accounting for the segment's assets constituting a fraud upon the segment's creditors;
(d) the segment's organizing resolution provides for a limitation on liabilities of the segment; and
(e) a notice of limitation on liabilities of the segment is recorded in accordance with Section 11-13-605.

(3) Except as otherwise provided in the segment's organizing resolution, a segment that satisfies the conditions described in Subsections (2)(a) through (e):
(a) is treated as a separate interlocal entity; and
(b) may:
(i) in its own name, contract, hold title to property, grant liens and security interests, and sue and be sued;
(ii) exercise all or any part of the powers, privileges, rights, authority, and capacity of the segment's associated entity; and
(iii) engage in any action in which the segment's associated entity may engage.

(4) Except as otherwise provided in the organization agreement of the segment's associated entity or in the segment's organizing resolution, a segment is governed by the organization agreement of the segment's associated entity.

(5) Subject to Subsection (4), a segment's organizing resolution:
(a) may address any matter relating to the segment, including the segment's governance or operation, to the extent that the organization agreement of a segment's associated entity does not address the matter; and
(b) to the extent not addressed in the organization agreement of the segment's associated entity, shall address the following matters:
(i) the powers delegated to the segment;
(ii) the manner in which the segment is to be governed, including whether the segment's governing body is the same as the governing board of the segment's associated entity;
(iii) subject to Subsection (6), if the segment's governing body is different from the governing board of the segment's associated entity, the manner in which the members of the segment's governing body are appointed or selected;
(iv) the segment's purpose;
(v) the manner of financing the segment's actions;
(vi) how the segment will establish and maintain a budget;
(vii) how to partially or completely terminate the segment and, upon a partial or complete termination, how to dispose of the segment's property;
(viii) the process, conditions, and terms for withdrawal of a participating public agency from the segment; and
(ix) voting rights, including whether voting is weighted, and, if so, the basis upon which the vote weight is determined.

(6) An organizing resolution shall provide that if a segment's governing body is different from the governing board of the segment's associated entity, the Utah public agencies that are parties to the organization agreement of the segment's associated entity may appoint or select members of the segment's governing body with a majority of the voting power.

(7) A segment may not:

(a) transfer the segment's property or other assets to the segment's associated entity or to another segment established by the segment's associated entity if the transfer impairs the ability of the segment to pay the segment's debts that exist at the time of the transfer, unless the segment's associated entity or the other segment gives fair value for the property or asset; or

(b) assign a tax or other liability imposed against the segment to the segment's associated entity or to another segment established by the segment's associated entity if the assignment impairs a creditor's ability to collect the amount due when owed.

(8) If a segment and a segment's associated entity or another segment established by the segment's associated entity are involved in a joint action or have a common interest in a facility, the segment's or the segment's associated entity's maintenance of records and accounts related to the joint action or common interest does not constitute a violation of Subsection (2)(b) or (c).

(9) Except as otherwise provided in this part or where clearly not applicable, the provisions of law that apply to a segment's associated entity also apply to the segment, including Subsection 11-13-205(5), as if the segment were a separate legal or administrative entity.

(10)

(a) To the extent an associated entity is a taxpayer as defined in Section 59-8-103, the associated entity shall pay tax on the associated entity's gross receipts at the rate of tax that would apply if all gross receipts of the associated entity and the associated entity's segments, in the aggregate, were the gross receipts of a single taxpayer.

(b) Each segment of an associated entity that is a taxpayer as defined in Section 59-8-103 shall pay tax on the segment's gross receipts each period described in Subsection 59-8-105(1) at the same rate of tax as the rate of tax paid by the segment's associated entity for the same period.

(c) Notwithstanding Subsections (10)(a) and (b):

(i) an associated entity is not liable for the tax imposed on a segment; and

(ii) a segment of an associated entity is not liable for the tax imposed on the segment's associated entity or on another segment of the segment's associated entity.

Amended by Chapter 7, 2021 Special Session 2

11-13-605 Notice of limitation on liabilities of segments.

(1)

(a) A notice of limitation on liabilities of a segment described in Subsection 11-13-604(2)(e) shall:

(i) state:

(A) the name of the segment's associated entity;

(B) the associated entity's indexed office;

(C) the associated entity's principal county; and

(D) that the liabilities of each segment established by the associated entity, regardless of when the segment is created, are limited in accordance with the provisions of this part; and

(ii) be acknowledged by a director or an officer of the associated entity.

(b) A notice of limitation on liabilities of a segment is not required to refer to a particular segment.

(2)

(a) The requirements described in Section 57-3-105 do not apply to a notice of limitation on liabilities of a segment.

(b) A county recorder shall record a notice of limitation on liabilities of a segment that:

(i) is submitted to the county recorder for recording; and
(ii) satisfies the requirements described in Subsection (1)(a).
(3) A recorded notice of limitation on liabilities of a segment does not create any interest in or otherwise encumber the property described in the notice.
(4)Title 38, Chapter 9, Wrongful Lien Act, and Title 38, Chapter 9a, Wrongful Lien Injunctions, do not apply to a notice of limitation on liabilities of a segment.
(5) A notice of limitation on liabilities of a segment that is recorded in accordance with this part in the principal county of the segment's associated entity constitutes notice for all purposes of the limitation on liabilities of the segment, regardless of whether the segment is established at the time the notice is recorded.

Enacted by Chapter 382, 2016 General Session

11-13-606 Members of a segment.
(1) Except as otherwise provided by a segment's organizing resolution in accordance with Subsection (2), a segment's associated entity is the sole member of the segment.
(2) A segment's organizing resolution may provide that a segment's membership includes a public agency other than the segment's associated entity only if the organizing resolution provides:
(a) the relative rights, powers, and duties of the segment's members;
(b) whether the members exercise the members' rights and powers and discharge the members' duties in one or more classes or groups;
(c) the method by which a member's membership in the segment is terminated;
(d) the effect of a member's termination; and
(e) the effect of the termination of the last member's membership in the segment, including the effect on the existence of the segment.

Enacted by Chapter 382, 2016 General Session

11-13-607 Limitations of liability for directors and officers.
(1) A director or an officer of a taxed interlocal entity or a segment is not liable to the taxed interlocal entity, the segment, a member of the taxed interlocal entity, a member of the segment, a conservator, receiver, or successor-in-interest of the taxed interlocal entity, or a conservator, receiver, or successor-in-interest of the segment for any action or failure to act as a director or an officer, unless:
(a) the director or the officer breaches a fiduciary duty that the director or the officer owes to the taxed interlocal entity, the segment, a member of the taxed interlocal entity, or a member of the segment; and
(b) the breach described in Subsection (1)(a) constitutes gross negligence, willful misconduct, or intentional infliction of harm on the taxed interlocal entity, the segment, a member of the taxed interlocal entity, or a member of the segment.
(2)
(a) Except as provided in Subsection (2)(b), a taxed interlocal entity or a segment may limit or eliminate the liability of a director or an officer described in Subsection (1) for monetary damages.
(b) A taxed interlocal entity or a segment may not limit or eliminate liability of a director or an officer in accordance with Subsection (2)(a) for monetary damages arising out of:
(i) a breach of a fiduciary duty;

(ii) an intentional infliction of harm on the taxed interlocal entity, the segment, a member of the taxed interlocal entity, or a member of the segment;
(iii) improper financial benefit; or
(iv) willful misconduct that constitutes an intentional violation of criminal law.
(3) The provisions of this section do not affect the liability of a director or an officer for an act or omission that occurred before May 10, 2016.
(4)
(a) The duties owed by a director or an officer of a taxed interlocal entity or a segment consist of the following:
(i) any fiduciary duty;
(ii) any other duty specified in:
(A) the organization agreement or bylaws of the taxed interlocal entity;
(B) the organizing resolution or bylaws of the segment; or
(C) any contract between the director or the officer and the taxed interlocal entity or the segment; and
(iii) each duty that applies to a taxed interlocal entity under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
(b) Each fiduciary duty of a director or an officer of a segment shall be consistent with the fiduciary duties of a director or an officer of the segment's associated entity.
(5)
(a) Nothing in this section nor any action taken by a taxed interlocal entity, a segment, a director or an officer of a taxed interlocal entity, or a director or an officer of a segment constitutes a waiver of any immunity or defense available under Title 63G, Chapter 7, Governmental Immunity Act of Utah.
(b) Subsections (1)(a) and (b) and (2)(b) apply only to the extent that the taxed interlocal entity, the segment, the director or the officer of the taxed interlocal entity, or the director or the officer of the segment is subject to liability under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Enacted by Chapter 382, 2016 General Session

11-13-608 Termination of associated entity or segment.
(1) The termination of a segment does not affect the segment's or the segment's associated entity's limitation on liabilities under this part.
(2) A segment is terminated upon the termination of the segment's associated entity.
(3)
(a) Subject to Subsection (3)(b), the termination of a segment's associated entity or a segment may not affect the liability of the governing board, the governing body, a member of the governing board, a member of the governing body, an officer, an official, a contractor, or an employee for an action authorized:
(i) before the termination of the associated entity or the segment by the governing board of the terminated associated entity or by the governing body of the terminated segment; or
(ii) after the termination of the associated entity or the segment by:
(A) a majority of individuals serving as members of the governing board of the terminated associated entity at the time the associated entity is terminated; or
(B) a majority of the individuals serving as members of the governing body of the terminated segment at the time the segment is terminated.
(b) Subsection (3)(a) applies to each action to:

(i) provide for the claims, debts, obligations, or liabilities of the terminated associated entity or the terminated segment; or
(ii) otherwise wind up the affairs of the terminated associated entity or the terminated segment.

Enacted by Chapter 382, 2016 General Session