Title 11. Cities, Counties, and Local Taxing Units

Chapter 1
Bonds and Warrants

11-1-1 Auditor's certificate to show obligation within debt limit.

The county auditor of each county, the auditor of each city, and the clerk of each board of education in this state shall endorse a certificate upon every bond, warrant or other evidence of debt, issued pursuant to law by any such officer, that the same is within the lawful debt limit of such county, city or school district, respectively, and is issued according to law. He shall sign such certificate in his official character.

No Change Since 1953

11-1-2 Auditors may rely on certain facts.

Whenever a county legislative body, board of city commissioners, city council, or board of education of any such county, city, or school district shall find or declare that any appropriation or expenditure for which a warrant or warrants are to be issued was or is for interest upon the bonded debt, for salaries, or for the current expenses of such county, city, or school district, such finding or declaration shall conclusively protect the county auditor, city auditor, or clerk of the board of education of any such county, city, or school district, as to such facts, in certifying any warrant or warrants therefor to be within the lawful debt limit of such county, city, or school district.

Amended by Chapter 227, 1993 General Session

11-1-3 False certificate -- Class A misdemeanor.

Any person mentioned in Section 11-1-1 who neglects to endorse any certificate as required, or who makes any certificate falsely and fraudulently, is guilty of a class A misdemeanor.

Amended by Chapter 178, 1986 General Session

11-1-4 Sinking fund -- Investment.

The legislative body of any county, municipality, school district, or taxing unit of Utah shall invest any sinking fund created by authority of law by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.

Amended by Chapter 285, 1992 General Session

11-1-5 Form, time, and place of payment -- Held in trust.

Whenever any county, municipality, school district or taxing unit within this state is authorized to issue and sell its bonds, they may be issued in serial form or in the form of term bonds and made payable in such manner and at such times, within legal limits, as such county, municipality, school district or taxing unit may determine. Principal and interest shall be made payable only at a duly incorporated bank or trust company operating under state or national banking laws or principal and interest may be made payable at such a bank or trust company or at the office of the treasurer of the issuer, at the option of the holder; provided, such alternative places of payment are designated in the bonds by the issuer at the time such bonds are issued.

All payments of funds either as principal or interest on any bonds issued by any county, municipality, school district or other taxing unit within this state paid to anyone other than the owner of such bonds shall be regarded and held as trust funds, and the person, firm or corporation so receiving the same shall be held as a trustee of such funds holding the same for the benefit of the owners and holders of such bonds until the same are fully paid over. Until such funds are paid over by the person, firm or corporation collecting the same, they shall be set up and held in a separate trust account and not commingled or used by the collector in any manner whatever.

No Change Since 1953

11-1-6 Violation of act a misdemeanor.

Anyone violating the provisions of this act is guilty of a class B misdemeanor.

Amended by Chapter 148, 2018 General Session

Chapter 2
Playgrounds

11-2-1 Local authorities may designate and acquire property for playgrounds and recreational facilities.

The governing body of any city, town, school district, special district, special service district, or county may designate and set apart for use as playgrounds, athletic fields, gymnasiums, public baths, swimming pools, camps, indoor recreation centers, television transmission and relay facilities, or other recreational facilities, any lands, buildings or personal property owned by such cities, towns, counties, special districts, special service districts, or school districts that may be suitable for such purposes; and may, in such manner as may be authorized and provided by law for the acquisition of lands or buildings for public purposes in such cities, towns, counties, special districts, special service districts, and school districts, acquire lands, buildings, and personal property therein for such use; and may equip, maintain, operate and supervise the same, employing such play leaders, recreation directors, supervisors and other employees as it may deem proper. Such acquisition of lands, buildings and personal property and the equipping, maintaining, operating and supervision of the same shall be deemed to be for public, governmental and municipal purposes.

Amended by Chapter 16, 2023 General Session

11-2-2 Entertainment facilities for citizenry.

Such local authorities may organize and conduct plays, games, calisthenics, gymnastics, athletic sports and games, tournaments, meets and leagues, dramatics, picture shows, pageants, festivals and celebrations, community music, clubs, debating societies, public speaking, story telling, hikes, picnics, excursions, camping and handicraft activities, and in areas so remote from regular transmission points of the large television stations that television reception is impossible without special equipment, and adequate, economical and proper television is not available to the public by private sources, said local authorities may equip and maintain television transmission and relay facilities and other forms of recreational activity that may employ the leisure time of the people in a constructive and wholesome manner.

Amended by Chapter 4, 1993 General Session

11-2-3 Recreation board.

Authority to supervise and maintain any of such recreational facilities and activities may be vested in any existing body or board, or in a public recreation board, as the governing body of any city, town, county or school district may determine. If it is determined that such powers are to be exercised by a public recreation board, such board may be established in any city, town, county or school district and shall possess all the powers and be subject to all the responsibilities of the respective local authorities under this chapter.

No Change Since 1953

11-2-4 Number of members of board -- Selection -- Term.

(1) A recreation board shall consist of between five and seven persons.

(2)

(a) When established in a city of the first or second class two members shall be selected from the board of education of the school district therein, and when established in any county two members shall be appointed from the board of education of that county; provided, that in counties having two or more school districts one member shall be appointed from each county school district therein.

(b) In any county having a regional service area and a recreation board consisting of more than five members, one of the members shall be appointed from the regional service area.

(3)

(a) The members of the board shall be appointed by the appointing authority of the county, municipality, school district, or regional service area and shall serve for a term of five years and until their successors are appointed; and

(b) provided, that the members first appointed shall be appointed for such terms that the term of one member will expire annually thereafter except that the terms of two members may expire during the same year when more than five members are appointed.

(4) Vacancies in a board occurring otherwise than by expiration of term shall be filled in the same manner as original appointments for the unexpired term. The members of recreation boards shall serve without compensation.

Amended by Chapter 216, 1995 General Session

11-2-5 Chairman, secretary and other officers of board.

Each recreation board shall elect its own chairman and secretary, and shall appoint all other officers necessary, for a period of one year; and may adopt rules and regulations for the conduct of its business.

No Change Since 1953

11-2-6 Cooperation between school districts and cities, towns and counties.

Any board of education of any school district may join with any city, town or county in purchasing, equipping, operating and maintaining playgrounds, athletic fields, gymnasiums, baths, swimming pools, television transmission and relay facilities of the type referred to in Section 11-2-2 and other recreational facilities and activities, and may appropriate money therefor.

Amended by Chapter 22, 1957 General Session

11-2-7 Expenses -- Payment of -- Authority to appropriate and tax -- Licensing of television owners and users -- Collection of license fees.

(1)

(a) All expenses incurred in the equipment, operation and maintenance of such recreational facilities and activities shall be paid from the treasuries of the respective cities, towns, counties, or school districts.

(b) Except as provided in Subsection (3), the governing bodies of the same may annually appropriate, and cause to be raised by taxation, money for such purposes.

(2) In areas so remote from regular transmission points of the large television stations that television reception is impossible without special equipment and adequate, economical and proper television is not available to the public by private sources, said local authorities may also, by ordinance, license, for the purpose of raising revenue to equip, operate and maintain television transmission and relay facilities, all users or owners of television sets within the jurisdiction of said local authorities, and may provide for the collection of the license fees by suit or otherwise and may also enforce obedience to such ordinances with such fine and imprisonment as the local authorities consider proper; provided that the punishment for any violation of such ordinances shall be by a fine not exceeding $50 or by imprisonment not exceeding one day for each $5 of said fine, if the fine is not paid.

(3) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Amended by Chapter 371, 2011 General Session

11-2-8 Donations.

The governing body in any city, town, county or school district may take charge of and use any grounds, buildings or other facilities which may be offered, either temporarily or permanently, by any individual or corporation for playground and recreation purposes; and may receive donations, legacies, bequests or devises for the establishment, improvement or maintenance of recreational facilities and activities. All money so received shall, unless otherwise provided by the terms of the gift or devise, be deposited in the treasury of the city, town, county or school district to the credit of the recreation fund, and may be withdrawn only in the manner provided for the payment of money appropriated for the acquisition, improvement, operation and maintenance of playgrounds and other recreational facilities and activities.

No Change Since 1953

Chapter 3
County and Municipal Fireworks Act

11-3-1 Short title.

This chapter is known as the "County and Municipal Fireworks Act."

Amended by Chapter 234, 1993 General Session

11-3-3.1 Definitions.

The definitions in Section 53-7-202 apply to this chapter.

Enacted by Chapter 234, 1993 General Session

11-3-3.5 Licensing of retail sellers of fireworks -- Permit required -- Fee, insurance, or bond.

(1)
- (a) A municipality or county may require a retail seller to obtain a license and pay a reasonable fee before selling class C common state-approved explosives within the jurisdiction of that municipality or county.
- (b) A municipality or county may not restrict the number of licenses to be issued under this section.

(2)
- (a) A municipality or county shall require:
  - (i) a permit to discharge all display fireworks, special effects, and flame effects performances; and
  - (ii) evidence that the display operator, special effects operator, or flame effects operator who will set up and discharge the display has received a license from the State Fire Marshal Division, Department of Public Safety.
- (b) A municipality or county may require a fee, insurance, or a bond before issuing a permit under this Subsection (2).

Amended by Chapter 61, 2010 General Session

11-3-4 Enforcement -- Seizure of fireworks sold unlawfully -- Revocation of license.

(1) Each county and municipal officer charged with the enforcement of state and municipal laws, including all fire enforcement officials and the State Fire Marshal Division of the Department of Public Safety, shall enforce this chapter and Sections 53-7-220 through 53-7-225, Utah Fireworks Act.

(2) Any official charged with enforcing this chapter and the Utah Fireworks Act may:
- (a) seize display fireworks, fireworks, and unclassified fireworks that are offered for sale, sold, or in the possession of an individual in violation of this chapter or the Utah Fireworks Act; and
- (b) recommend to the state fire marshall that each importer or wholesaler selling or offering to sell display fireworks, fireworks, or unclassified fireworks in violation of this chapter or the Utah Fireworks Act have his license revoked.

Amended by Chapter 234, 1993 General Session

11-3-8 Conflicting local ordinances prohibited.

A county, city, town, or metro township may not adopt an ordinance or regulation in conflict with Sections 53-7-220 through 53-7-225.

Amended by Chapter 189, 2018 General Session

11-3-10 Exemptions -- Limitation on chapter.

(1) This chapter does not apply to class A, class B, and class C explosives that are not for use in Utah, but are manufactured, stored, warehoused, or in transit for destinations outside of Utah.

(2) This chapter does not supersede Section 23A-2-208, regarding use of fireworks and explosives by the Division of Wildlife Resources and federal game agents.
(3) Provided that the display operators are properly licensed as required by Section 53-7-223, municipalities and counties for the unincorporated areas within the county may conduct, permit, or regulate:
(a) exhibitions of display fireworks; or
(b) pyrotechnic displays held inside public buildings.

Amended by Chapter 34, 2023 General Session

11-3-11 Sale or use of unauthorized fireworks -- Class B misdemeanor.
Any person who violates this chapter is guilty of a class B misdemeanor.

Amended by Chapter 268, 1992 General Session

Chapter 4
Standard Fire-Fighting Equipment

11-4-2 Duty of local governing body -- Maintenance of existing equipment.
(1) Each local governing body installing any completely new fire protection system shall comply with Title 53, Chapter 7, Utah Fire Prevention and Safety Act.
(2) A local governing body operating fire protection equipment may maintain, repair, replace, and extend the equipment with equipment of like character and standards.

Amended by Chapter 234, 1993 General Session

Chapter 6
Pawnbrokers and Secondhand Dealers

11-6-1 Records to be kept -- Availability to peace officers.
Pawnbrokers and dealers in secondhand goods shall keep records containing a description of all articles received by them, the amounts paid therefor or advanced thereon, a general description of the person from whom received, together with his name and address and the date of the transaction. Such records shall at all reasonable times be accessible to any peace officer who demands an inspection thereof, and any further information regarding such transaction that he may require shall be given by pawnbrokers and secondhand dealers to the best of their ability. In cities of the first and the second class at the close of each day's business pawnbrokers shall mail a copy of such records to the sheriff of the county in which they are located.

No Change Since 1953

11-6-3 Violation a misdemeanor.
A violation of any of the provisions of this chapter is a class B misdemeanor.

Amended by Chapter 148, 2018 General Session

11-6-4 Political subdivisions may not set interest rates.

No county, city, town, or other political subdivision may set the interest rates or other charges which pawnbrokers may charge.

Enacted by Chapter 55, 1985 General Session

Chapter 7
Fire Protection

11-7-1 Cooperation with other governmental units -- Burning permits -- Contracts.

(1) The governing body of every incorporated municipality and the board of commissioners or county council of every county shall:
  (a) provide adequate fire protection within their own territorial limits; and
  (b) cooperate with all contiguous counties, municipal corporations, private corporations, fire districts, state agencies, or federal governmental agencies to maintain adequate fire protection within their territorial limits.
(2) Every incorporated municipality and every county may:
  (a) require that persons obtain a burning permit before starting a fire on any forest, wildland urban interface, brush, range, grass, grain, stubble, or hay land, except that a municipality or county may not require a burning permit for the burning of fence lines on cultivated lands, canals, or irrigation ditches, provided that the individual notifies the nearest fire department of the approximate time that the burning will occur;
  (b) maintain and support a fire-fighting force or fire department for its own protection;
  (c) contract to furnish fire protection to any proximate county, municipal corporation, private corporation, fire district, state agency, or federal agency;
  (d) contract to receive fire protection from any contiguous county, municipal corporation, private corporation, fire district, state agency, or federal governmental agency;
  (e) contract to jointly provide fire protection with any contiguous county, municipal corporation, private corporation, fire district, state agency, or federal governmental agency; or
  (f) contract to contribute toward the support of a fire-fighting force, or fire department in any contiguous county, municipal corporation, private corporation, fire district, state agency, or federal governmental agency in return for fire protection.

Amended by Chapter 174, 2016 General Session

11-7-2 Contract -- Requirements -- Time in effect.

Any contract made pursuant to Section 11-7-1 shall:
(1) Be in writing.
(2) Set forth in detail the extent of the fire protection to be afforded by the party or parties contracting to furnish fire protection.
(3) Set forth in detail the amount and method of payment to be made by the party or parties.
(4) Be in effect for at least one year but not more than five years.

Enacted by Chapter 19, 1957 General Session

11-7-3 Privileges and immunities from liability extend to departments fighting fires outside territorial limits under contract.

All the privileges and immunities from liability which surround the activities of any county or municipal corporation fire-fighting force or fire department when performing its functions within the governmental unit's territorial limits shall apply to the activities of that governmental unit's fire-fighting force or department while furnishing fire protection outside its territorial limits under any contract pursuant to Section 11-7-1.

Enacted by Chapter 19, 1957 General Session

11-7-4 Death or injury of fireman while fighting fire outside territorial limits.

The effect of the death or injury of any fireman who is killed or injured outside the territorial limits of the county or municipality where he is a member of the fire-fighting force or fire department and while that force or department is functioning pursuant to any contract made under Section 11-7-1 shall be the same as if he were killed or injured while that force or department was functioning within its own territorial limits, and his death shall be considered in the line of duty.

Enacted by Chapter 19, 1957 General Session

Chapter 8
Sewage and Culinary Water Systems

11-8-1 Contracts for joint use, operation, and ownership of sewage lines and sewage treatment and disposal systems.

Any county, incorporated municipality, improvement district, taxing district or other political subdivision of the state of Utah which now or hereafter owns and operates sanitary sewer facilities (each of which is hereinafter referred to as a "public owner") is hereby granted authority:

(1) To enter into long-term contracts with any other public owner or public owners pursuant to which sewage lines, sewage treatment and sewage disposal facilities, or any part thereof, of one or more public owners shall be available for collection, treatment and disposal, or any part thereof, of the sewage collected by one or more other public owners, or of sewage collected jointly, pursuant to such terms and conditions and for such consideration as may be provided in such contracts. Annual payments due by any such public owner for services received under any such contract may not be construed to be an indebtedness of such public owner within the meaning of any constitutional or statutory restriction, and no election shall be necessary for the authorization of such contract. Any public owner or owners so contracting to make available sewage collection, sewage treatment and disposal facilities, or any part thereof, may in any such contract agree to make available to such other public owner or owners a specified part of its facilities, without regard to its future need of such specified part for its own use, and may in such contract agree to increase the capacity of its facilities from time to time in the future if necessary in order to take care of its own needs and to perform its obligations to the other parties to such contract.

(2) To construct or otherwise acquire joint interests in, and to own jointly, sewer lines, sewage treatment and disposal facilities, or any part thereof for their common use. To such end, any public owner may sell to any other public owner or owners a partial interest or interests in any of its sewer lines, sewage treatment and disposal facilities. Any public owner may issue its

bonds for the purpose of acquiring such joint interest in sewer lines, sewage treatment and disposal facilities, or any part thereof, whether such joint interest is to be acquired through the construction of new facilities or the purchase of such interest in existing facilities, which bonds may be issued under the provisions and in the manner provided in any available law authorizing the issuance of bonds for the acquisition of sanitary sewer facilities by such public owner.
(3) To operate jointly with any other public owner or owners, sewer lines, sewage treatment and disposal facilities, or any part thereof, which they may own jointly.

Amended by Chapter 378, 2010 General Session

11-8-2 State loans for sewage treatment facilities -- Rules of Water Quality Board.

The Department of Environmental Quality is authorized to negotiate loans to political subdivisions and municipal authorities for the construction, reconstruction, and improvement of municipal sewage treatment facilities. All loans shall be made pursuant to rules made by the Water Quality Board and not exceed 25% of the total cost of the facility. The loans shall be authorized by the political subdivision involved pursuant to Title 11, Chapter 14, Local Government Bonding Act, or other applicable law of this state pertaining to indebtedness of political subdivisions.

Amended by Chapter 105, 2005 General Session

11-8-3 Department of Environmental Quality to negotiate loans for sewage facilities.

(1) The Department of Environmental Quality may negotiate loans from the Retirement Systems Fund, State Land Principal Fund, or any state fiduciary fund which has sums available for loaning, as these funds are defined in Title 51, Chapter 5, Funds Consolidation Act, not to exceed $1,000,000 in any fiscal year for the purposes of providing the funding for the loans provided for in Section 11-8-2.
(2) The terms of any borrowing and repayment shall be negotiated between the borrower and the lender consistent with the legal duties of the lender.

Amended by Chapter 451, 2022 General Session

11-8-4 Sewer lateral disclosure required.

(1) As used in this section:
  (a) "Public owner" means the same as that term is defined in Section 11-8-1.
  (b) "Public provider" means a public owner or a public retail water provider.
  (c) "Public retail water provider" means a public entity that provides culinary water to end users.
  (d) "Retail water line" means a pipe that connects a property to a public retail water provider's water main line.
  (e) "Sanitary sewer service" means service provided by a public owner's sanitary sewer facilities.
  (f) "Sewer lateral" means a pipe that connects a property to a public owner's sanitary sewer main line.
(2)
  (a) Twice per calendar year, a public provider shall, in accordance with Subsection (2)(b), distribute a disclosure that:
    (i)
      (A) for a public owner, includes the definition of a sewer lateral; or
      (B) for a public retail water provider, includes the definition of a retail water line; and

(ii) states whether the record owner of the property or the public provider is responsible for repair and replacement of the sewer lateral or retail water line that serves the property.

(b) A public provider may distribute the disclosure described in Subsection (2)(a) by:

(i) twice per calendar year conspicuously placing the disclosure:

(A) on each bill for sanitary sewer service or culinary water service in a particular billing cycle; or

(B) in a newsletter that is circulated within the boundaries of the area served by the public provider;

(ii) conspicuously placing the disclosure on the public provider's website;

(iii) including the disclosure in a broad based social media campaign; or

(iv) any other means reasonably calculated to make the disclosure available to individuals served by the public provider.

(c) A public provider's failure to comply with a provision of this Subsection (2) does not result in any liability for the public provider based on the public provider's failure to comply.

Amended by Chapter 102, 2017 General Session

Chapter 10
Business Allowing Consumption of Liquor on Premises

11-10-1 Business license required -- Authorization for issuance, denial, suspension, or revocation by local authority.

(1) As used in this chapter, the following have the meaning set forth in Section 32B-1-102:

(a) "alcoholic product";

(b) "bar establishment license";

(c) "local authority"; and

(d) "restaurant."

(2) A person may not operate an association, a restaurant, a bar, or a business similar to a business operated under a bar establishment license, or other similar business that allows a person to possess or consume an alcoholic product on the premises of the association, restaurant, bar, or similar business premises without a business license.

(3)

(a) A local authority may issue a business license to a person who owns or operates an association, restaurant, bar, or similar business that allows a person to hold, store, possess, or consume an alcoholic product on the premises.

(b) A business license issued under this Subsection (3) does not permit a person to hold, store, possess, or consume an alcoholic product on the premises other than as provided in Title 32B, Alcoholic Beverage Control Act.

(4) A local authority may suspend or revoke a business license for a violation of Title 32B, Alcoholic Beverage Control Act.

(5) A local authority shall set policy by written rules that establish criteria and procedures for granting, denying, suspending, or revoking a business license issued under this chapter.

(6) A business license issued under this section does not constitute written consent of the local authority within the meaning of Title 32B, Alcoholic Beverage Control Act.

Amended by Chapter 455, 2017 General Session

11-10-2 Qualifications of licensee.

(1) A license may not be granted:
  (a) unless the licensee is of good moral character, over the age of 21 years, and lawfully present in the United States;
  (b) to anyone who has been convicted of a felony or misdemeanor involving moral turpitude;
  (c) to any partnership or association, any member of which lacks any of the qualifications set out in this section; or
  (d) to any corporation, if any of its directors or officers lacks any qualification set out in this section.

(2) The local authority shall, before issuing licenses, satisfy itself by written evidence executed by the applicant that the applicant meets the standards set forth.

Amended by Chapter 455, 2017 General Session

11-10-3 License fee.

The license fee may not exceed $300.

Amended by Chapter 23, 1990 General Session

11-10-4 Ordinances making it unlawful to operate without license.

Each local authority granting licenses under this chapter may adopt ordinances making it unlawful to operate such establishments without being licensed.

Amended by Chapter 23, 1990 General Session

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

Chapter 13a
Governmental Nonprofit Corporations Act

11-13a-101 Title.
This chapter is known as the "Governmental Nonprofit Corporations Act."

Enacted by Chapter 441, 2017 General Session

11-13a-102 Definitions.
As used in this chapter:

(1) "Controlling interest" means that one or more governmental entities collectively represent a majority of the board's voting power as outlined in the nonprofit corporation's governing documents.
(2)
(a) "Governing board" means the body that governs a governmental nonprofit corporation.
(b) "Governing board" includes a board of directors.
(3) "Governmental entity" means the state, a county, a municipality, a special district, a special service district, a school district, a state institution of higher education, or any other political subdivision or administrative unit of the state.
(4)
(a) "Governmental nonprofit corporation" means:
(i) a nonprofit corporation that is wholly owned or wholly controlled by one or more governmental entities, unless the nonprofit corporation receives no operating funding or other financial support from any governmental entity; or
(ii) a nonprofit corporation in which one or more governmental entities exercise a controlling interest and:
(A) that exercises taxing authority;
(B) that imposes a mandatory fee for association or participation with the nonprofit corporation where that association or participation is mandated by law; or
(C) that receives a majority of the nonprofit corporation's operating funding from one or more governmental entities under the nonprofit corporation's governing documents, except where voluntary membership fees, dues, or assessments compose the operating funding.
(b) "Governmental nonprofit corporation" does not include a water company, as that term is defined in Section 16-4-102, unless the water company is wholly owned by one or more governmental entities.
(5) "Municipality" means a city, town, or metro township.

Amended by Chapter 16, 2023 General Session

11-13a-103 Governance -- Powers of governing body.
(1) A governing board shall manage and direct the business and affairs of a governmental nonprofit corporation.
(2) Each member of a governing board has and owes a fiduciary duty to the governmental nonprofit corporation.
(3) A governing board:
(a) shall elect a chair from the members of the board; and
(b) subject to Subsection (4), may elect other officers as the board considers appropriate.
(4)
(a) One person may not hold, at the same time, the offices of chair and treasurer, chair and clerk, or treasurer and clerk.
(b) An officer serves at the pleasure of the governing board.
(c) The governing board may designate a set term for each office.

Enacted by Chapter 441, 2017 General Session

11-13a-104 Quorum of the governing board -- Meetings of the governing board.
(1)

(a) A majority of the governing board constitutes a quorum for the transaction of governing board business.
(b) Action by a majority of a quorum constitutes action of the governing board.
(2) The governing board shall hold regular and special meetings as the governing board determines at a location that the governing board determines.
(3)
(a) The governing board shall ensure that each meeting of the governing board complies with Title 52, Chapter 4, Open and Public Meetings Act.
(b) Subject to Title 52, Chapter 4, Open and Public Meetings Act, a governing board shall:
(i) adopt rules of order and procedure to govern a public meeting of the governing board;
(ii) conduct a public meeting in accordance with the governing board's rules of order and procedure; and
(iii) make the governing board's rules of order and procedure available to the public:
(A) at each meeting of the governing board; and
(B) on the governmental nonprofit corporation's public website, if available.
(4) The governing board shall comply with:
(a)Title 11, Chapter 13, Part 5, Fiscal Procedures for Interlocal Entities; and
(b)Title 63G, Chapter 2, Government Records Access and Management Act.

Enacted by Chapter 441, 2017 General Session

11-13a-105 Registration as a limited purpose entity.
(1) Each governmental nonprofit corporation shall register and maintain the governmental nonprofit corporation's registration as a limited purpose entity, in accordance with Section 67-1a-15.
(2) A governmental nonprofit corporation that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Enacted by Chapter 256, 2018 General Session

11-13a-106 Training for board members.
(1)
(a)
(i) Each member of a board of directors of a governmental nonprofit corporation shall complete the training described in Subsection (2)(a):
(A) within six months after the day on which the member becomes a board member; or
(B) for a member already in the position of board member on May 14, 2019, before November 14, 2019.
(ii) If a board member fails to complete the training described in Subsection (2)(a) within the time period specified in Subsection (1)(a)(i):
(A) the state auditor shall issue a notice of noncompliance to the board member and the relevant board of directors; and
(B) if the board member fails to complete the training described in Subsection (2)(a) within 30 calendar days after the date of the auditor's notice of noncompliance, the board member is disqualified and may not act as a board member.
(b) For the purposes of Subsection (1)(a), a member of a board of directors of a governmental nonprofit corporation takes office each time the member is elected or appointed to a new term.
(2) The state auditor shall:

(a) develop a training or other informational resource to aid a governmental nonprofit corporation in implementing best practices for financial controls and board governance;
(b) provide the training or other informational resource described in Subsection (2)(a) to each of the following entities that provides any required budgeting, expenditure, or financial report to the state auditor:
(i) a governmental nonprofit corporation; and
(ii) a state agency or political subdivision of the state that wholly controls or has a controlling interest in a governmental nonprofit corporation, as described in Section 11-13a-102;
(c) ensure that the training described in Subsection (2)(a) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and
(d) issue a certificate of completion to each board member that completes the training described in Subsection (2)(a).

Enacted by Chapter 416, 2019 General Session

Chapter 14
Local Government Bonding Act

Part 1
General Provisions

11-14-101 Title.
This chapter is known as the "Local Government Bonding Act."

Enacted by Chapter 105, 2005 General Session

11-14-102 Definitions.
For the purpose of this chapter:
(1) "Bond" means any bond authorized to be issued under this chapter, including municipal bonds.
(2) "Election results" has the same meaning as defined in Section 20A-1-102.
(3) "Governing body" means:
(a) for a county, city, town, or metro township, the legislative body of the county, city, or town;
(b) for a special district, the board of trustees of the special district;
(c) for a school district, the local board of education; or
(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:
(i) the governing body of the county or municipality that created the special service district, if no administrative control board has been established under Section 17D-1-301; or
(ii) the administrative control board, if one has been established under Section 17D-1-301 and the power to issue bonds not payable from taxes has been delegated to the administrative control board.
(4)
(a) "Local political subdivision" means a county, city, town, metro township, school district, special district, or special service district.
(b) "Local political subdivision" does not include the state and its institutions.
(5) "Special district" means a district operating under Title 17B, Limited Purpose Local Government Entities - Special Districts.

Amended by Chapter 16, 2023 General Session

11-14-103 Bond issues authorized -- Purposes -- Use of bond proceeds.

(1) Any local political subdivision may, in the manner and subject to the limitations and restrictions contained in this chapter, issue its negotiable bonds for the purpose of paying all or part of the cost of:

(a) acquiring, improving, or extending any one or more improvements, facilities, or property that the local political subdivision is authorized by law to acquire, improve, or extend;

(b) acquiring, or acquiring an interest in, any one or more or any combination of the following types of improvements, facilities, or property to be owned by the local political subdivision, either alone or jointly with one or more other local political subdivisions, or for the improvement or extension of any of those wholly or jointly owned improvements, facilities, or properties:

(i) public buildings of every nature, including without limitation, offices, courthouses, jails, fire, police and sheriff's stations, detention homes, and any other buildings to accommodate or house lawful activities of a local political subdivision;

(ii) waterworks, irrigation systems, water systems, dams, reservoirs, water treatment plants, and any other improvements, facilities, or property used in connection with the acquisition, storage, transportation, and supplying of water for domestic, industrial, irrigation, recreational, and other purposes and preventing pollution of water;

(iii) sewer systems, sewage treatment plants, incinerators, and other improvements, facilities, or property used in connection with the collection, treatment, and disposal of sewage, garbage, or other refuse;

(iv) drainage and flood control systems, storm sewers, and any other improvements, facilities, or property used in connection with the collection, transportation, or disposal of water;

(v) recreational facilities of every kind, including without limitation, athletic and play facilities, playgrounds, athletic fields, gymnasiums, public baths, swimming pools, camps, parks, picnic grounds, fairgrounds, golf courses, zoos, boating facilities, tennis courts, auditoriums, stadiums, arenas, and theaters;

(vi) convention centers, sports arenas, auditoriums, theaters, and other facilities for the holding of public assemblies, conventions, and other meetings;

(vii) roads, bridges, viaducts, tunnels, sidewalks, curbs, gutters, and parking buildings, lots, and facilities;

(viii) airports, landing fields, landing strips, and air navigation facilities;

(ix) educational facilities, including without limitation, schools, gymnasiums, auditoriums, theaters, museums, art galleries, libraries, stadiums, arenas, and fairgrounds;

(x) hospitals, convalescent homes, and homes for the aged or indigent; and

(xi) electric light works, electric generating systems, and any other improvements, facilities, or property used in connection with the generation and acquisition of electricity for these local political subdivisions and transmission facilities and substations if they do not duplicate transmission facilities and substations of other entities operating in the state prepared to provide the proposed service unless these transmission facilities and substations proposed to be constructed will be more economical to these local political subdivisions;

(c) new construction, renovation, or improvement to a state highway within the boundaries of the local political subdivision or an environmental study for a state highway within the boundaries of the local political subdivision; or

(d) except as provided in Subsection (5), the portion of any claim, settlement, or judgment that exceeds $3,000,000.
(2) Except as provided in Subsection (1)(c), any improvement, facility, or property under Subsection (1) need not lie within the limits of the local political subdivision.
(3) A cost under Subsection (1) may include:
(a) the cost of equipment and furnishings for such improvements, facilities, or property;
(b) all costs incident to the authorization and issuance of bonds, including engineering, legal, and fiscal advisers' fees;
(c) costs incident to the issuance of bond anticipation notes, including interest to accrue on bond anticipation notes;
(d) interest estimated to accrue on the bonds during the period to be covered by the construction of the improvement, facility, or property and for 12 months after that period; and
(e) other amounts which the governing body finds necessary to establish bond reserve funds and to provide working capital related to the improvement, facility, or property.
(4)
(a) Except as provided in Subsection (4)(b), the proceeds from bonds issued on or after May 14, 2013, may not be used:
(i) for operation and maintenance expenses for more than one year after the date any of the proceeds are first used for those expenses; or
(ii) for capitalization of interest more than five years after the bonds are issued.
(b) The restrictions on the use of bond proceeds under Subsection (4)(a) do not apply to bonds issued to pay all or part of the costs of a claim, settlement, or judgment under Subsection (1)(d).
(5) Beginning on or after July 1, 2021, a local political subdivision may not issue its negotiable bonds for a purpose described in Subsection (1)(d).

Amended by Chapter 386, 2016 General Session

Part 2
Bond Elections

11-14-201 Election on bond issues -- Qualified electors -- Resolution and notice.
(1) The governing body of any local political subdivision that wishes to issue bonds under the authority granted in Section 11-14-103 shall:
(a) at least 75 days before the date of election:
(i) approve a resolution submitting the question of the issuance of the bonds to the voters of the local political subdivision; and
(ii) provide a copy of the resolution to:
(A) the lieutenant governor; and
(B) the election officer, as defined in Section 20A-1-102, charged with conducting the election; and
(b) comply with the requirements of Title 59, Chapter 1, Part 16, Transparency of Ballot Propositions Act.
(2) The local political subdivision may not issue the bonds unless the majority of the qualified voters of the local political subdivision who vote on the bond proposition approve the issuance of the bonds.

(3) Nothing in this section requires an election for the issuance of:
(a) refunding bonds; or
(b) other bonds not required by law to be voted on at an election.
(4) The resolution calling the election shall include a ballot proposition, in substantially final form, that complies with the requirements of Subsection 11-14-206(2).

Amended by Chapter 356, 2014 General Session

11-14-202 Notice of election -- Voter information pamphlet option -- Changing or designating additional precinct polling places.

(1) The governing body shall provide notice of the election for the local political subdivision for at least three weeks before the day of the election, as a class A notice under Section 63G-30-102.
(2) When the debt service on the bonds to be issued will increase the property tax imposed upon the average value of a residence by an amount that is greater than or equal to $15 per year, the governing body shall prepare and mail either a voter information pamphlet or a notification described in Subsection (8):
(a) at least 15 days, but not more than 45 days, before the bond election;
(b) to each household containing a registered voter who is eligible to vote on the bonds; and
(c) that includes the information required by Subsections (4) and (5).
(3) The election officer may change the location of, or establish an additional:
(a) voting precinct polling place, in accordance with Subsection (6);
(b) early voting polling place, in accordance with Subsection 20A-3a-603(2); or
(c) election day voting center, in accordance with Subsection 20A-3a-703(2).
(4) The notice described in Subsection (1) and the voter information pamphlet described in Subsection (2):
(a) shall include, in the following order:
(i) the date of the election;
(ii) the hours during which the polls will be open;
(iii) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each polling place for each voting precinct, each early voting polling place, and each election day voting center, including any changes to the location of a polling place and the location of an additional polling place;
(iv) a phone number that a voter may call to obtain information regarding the location of a polling place; and
(v) the title and text of the ballot proposition, including the property tax cost of the bond described in Subsection 11-14-206(2)(a); and
(b) may include the location of each polling place.
(5) The voter information pamphlet required by this section shall include:
(a) the information required under Subsection (4); and
(b) an explanation of the property tax impact, if any, of the issuance of the bonds, which may be based on information the governing body determines to be useful, including:
(i) expected debt service on the bonds to be issued;
(ii) a description of the purpose, remaining principal balance, and maturity date of any outstanding general obligation bonds of the issuer;
(iii) funds other than property taxes available to pay debt service on general obligation bonds;
(iv) timing of expenditures of bond proceeds;
(v) property values; and

(vi) any additional information that the governing body determines may be useful to explain the property tax impact of issuance of the bonds.

(6)

(a) Except as provided in Section 20A-1-308, the election officer may, after the deadlines described in Subsections (1) and (2):

(i) if necessary, change the location of a voting precinct polling place; or

(ii) if the election officer determines that the number of voting precinct polling places is insufficient due to the number of registered voters who are voting, designate additional voting precinct polling places.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a voting precinct polling place or designates an additional voting precinct polling place, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of a changed voting precinct polling place or an additional voting precinct polling place:

(i) to the lieutenant governor, for posting on the Statewide Electronic Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) of a change in the location of a voting precinct polling place, at the new location and, if possible, the old location; and

(B) of an additional voting precinct polling place, at the additional voting precinct polling place.

(7) The governing body shall pay the costs associated with the notice required by this section.

(8)

(a) The governing body may mail a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(b) The notice described in Subsection (8)(a) shall include:

(i) the website upon which the voter information pamphlet is available; and

(ii) the phone number a voter may call to request delivery of a voter information pamphlet by mail.

(9) A local school board shall comply with the voter information pamphlet requirements described in Section 53G-4-603.

Amended by Chapter 435, 2023 General Session

11-14-203 Time for election -- Equipment -- Election officials -- Combining precincts.

(1)

(a) The local political subdivision shall ensure that bond elections are conducted and administered according to the procedures set forth in this chapter and the sections of the Election Code specifically referenced by this chapter.

(b) When a local political subdivision complies with those procedures, there is a presumption that the bond election was properly administered.

(2)

(a) A bond election may be held, and the proposition for the issuance of bonds may be submitted, on the same date as the regular general election, the municipal general election held in the local political subdivision calling the bond election, or at a special election called for the purpose on a date authorized by Section 20A-1-204.

(b) A bond election may not be held, nor a proposition for issuance of bonds be submitted, at the presidential primary election held under Title 20A, Chapter 9, Part 8, Presidential Primary Election.

(3)
(a) The bond election shall be conducted and administered by the election officer designated in Sections 20A-1-102 and 20A-5-400.5.
(b)
(i) The duties of the election officer shall be governed by Title 20A, Chapter 5, Part 4, Election Officer's Duties.
(ii) The publishing requirement under Subsection 20A-5-405(1)(f)(iii) does not apply when notice of a bond election has been provided according to the requirements of Section 11-14-202.
(c) The hours during which the polls are to be open shall be consistent with Section 20A-1-302.
(d) The appointment and duties of election judges shall be governed by Title 20A, Chapter 5, Part 6, Poll Workers.
(e) General voting procedures shall be conducted according to the requirements of Title 20A, Chapter 3a, Voting.
(f) The designation of election crimes and offenses, and the requirements for the prosecution and adjudication of those crimes and offenses are set forth in Title 20A, Election Code.
(4) When a bond election is being held on a day when no other election is being held in the local political subdivision calling the bond election, voting precincts may be combined for purposes of bond elections so long as no voter is required to vote outside the county in which the voter resides.
(5) When a bond election is being held on the same day as any other election held in a local political subdivision calling the bond election, or in some part of that local political subdivision, the polling places and election officials serving for the other election may also serve as the polling places and election officials for the bond election, so long as no voter is required to vote outside the county in which the voter resides.

Amended by Chapter 170, 2022 General Session

11-14-204 Challenges to voter qualifications.
(1) Any person's qualifications to vote at a bond election may be challenged according to the procedures and requirements of Sections 20A-3a-205 and 20A-3a-803.
(2) A bond election may not be invalidated on the grounds that ineligible voters voted unless:
(a) it is shown by clear and convincing evidence that ineligible voters voted in sufficient numbers to change the result of the bond election; and
(b) the complaint is filed before the expiration of the time period permitted for contests in Subsection 20A-4-403(3).
(3) The votes cast by the voters shall be accepted as having been legally cast for purposes of determining the outcome of the election, unless the court in a bond election contest finds otherwise.

Amended by Chapter 31, 2020 General Session

11-14-205 Special registration not required -- Official register supplied by clerk.
(1)
(a) Voter registration shall be administered according to the requirements of Title 20A, Chapter 2, Voter Registration.
(b) The governing body may not require or mandate any special registration of voters for a bond election.

(2) The county clerk of each county in which a local political subdivision holding the bond election is located shall prepare the official register for the bond election according to the requirements of Section 20A-5-401.
(3) The official register's failure to identify those voters not residing in the local political subdivision holding the bond election, or any inaccuracy in that identification, is not a ground for invalidating the bond election.

Amended by Chapter 83, 2006 General Session

11-14-206 Ballots -- Submission of ballot language -- Form and contents.
(1) At least 75 days before the election, the governing body shall prepare and submit to the election officer:
(a) a ballot title for the bond proposition that includes the name of the local political subdivision issuing the bonds and the word "bond"; and
(b) a ballot proposition that meets the requirements of Subsection (2).
(2)
(a) The governing body shall ensure that the ballot proposition includes:
(i) the maximum principal amount of the bonds;
(ii) the maximum number of years from the issuance of the bonds to final maturity;
(iii) the general purpose for which the bonds are to be issued; and
(iv) if issuance of the bonds will require the increase of the property tax imposed upon the average value of a residence by an amount that is greater than or equal to $15 per year, the following information in substantially the following form and in the following order:

"PROPERTY TAX COST OF BONDS:

If the bonds are issued as planned, [if applicable: without regard to the taxes currently levied for outstanding bonds that will reduce over time,] an annual property tax to pay debt service on the bonds will be required over a period of ____ years in the estimated amount of $____ (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) on a residence and in the estimated amount of $____ on a business property having the same value.

[If applicable] If there are other outstanding bonds, an otherwise scheduled tax decrease may not occur if these bonds are issued.

The foregoing information is only an estimate and is not a limit on the amount of taxes that the governing body may be required to levy in order to pay debt service on the bonds. The governing body is obligated to levy taxes to the extent provided by law in order to pay the bonds."

(b) The governing body may state the purpose of the bonds in general terms and need not specify the particular projects for which the governing body intends to issue the bonds or the specific amount of bond proceeds that the governing body intends to expend for each project.
(c) If the governing body intends that the bonds be payable in part from tax proceeds and in part from the operating revenues of the local political subdivision, or from any combination of tax proceeds and operating revenues, the governing body may indicate those payment sources on the bond proposition, but need not specify how the governing body intends to divide the bonds between those sources of payment.
(d)
(i) The governing body shall ensure that the bond proposition is followed by the words, "For the issuance of bonds" and "Against the issuance of bonds," with appropriate boxes in which the voter may indicate the voter's choice.

(ii) Nothing in Subsection (2)(d)(i) prohibits the addition of descriptive information about the bonds.
(3) If a bond proposition is submitted to a vote on the same day as any other election held in the local political subdivision calling the bond election, the governing body or an election officer may combine the bond proposition with the candidate ballot in a manner consistent with Section 20A-6-301 or 20A-6-402.
(4) The governing body shall ensure that the ballot form complies with the requirements of Title 20A, Chapter 6, Ballot Form.

Amended by Chapter 31, 2020 General Session

11-14-207 Counting and canvassing -- Official finding.

(1)
(a) Following the election officer's inspection and count of the ballots in accordance with the procedures of Title 20A, Chapter 4, Part 1, Counting Ballots and Tabulating Results, and Part 2, Transmittal and Disposition of Ballots and Election Returns, the governing body shall meet and canvass the election results.
(b)
(i) The governing body of the local political subdivision is the board of canvassers for the bond proposition.
(ii) The board of canvassers shall always consist of a quorum of the governing body.
(c) The canvass of the election results shall be made in public no sooner than seven days after the election and no later than 14 days after the election.
(d) The canvass of election results shall be conducted according to the procedures and requirements of Subsection 20A-4-301(3) and Sections 20A-4-302 and 20A-4-303.
(e) If a bond proposition is submitted to a vote on the same day as any other election held in the local political subdivision calling the bond election, the governing body shall coordinate the date of its canvass with any other board of canvassers appointed under Section 20A-4-301.
(2)
(a) After the canvass of election returns, the governing body shall record in its minutes:
(i) an official finding as to the total number of votes cast, the number of affirmative votes, the number of negative votes, the number of challenged voters, the number of challenged voters that were issued a provisional ballot, and the number of provisional ballots that were counted; and
(ii) an official finding that the bond proposition was approved or rejected.
(b) The governing body need not file with the county clerk or with any other official:
(i) any statement or certificate of the election results;
(ii) any affidavit with respect to the facts pertaining to the election; or
(iii) any affidavit pertaining to the indebtedness and valuation of the municipality.
(3) The official finding that the majority of the qualified voters of the local political subdivision voting on the bond proposition approved the issuance of the bonds is conclusive in any action or proceeding involving the validity of the election or involving the determination or declaration of the result of the election if the action is filed after the expiration of the period provided in Subsection 20A-4-403(3).

Amended by Chapter 83, 2006 General Session

11-14-208 Contest of election results -- Procedure.

(1)
(a) Any person wishing to contest the results of a bond election shall comply with the procedures and requirements of Title 20A, Chapter 4, Part 4, Recounts and Election Contests.
(b) The local political subdivision calling the election shall be regarded as the defendant.
(2) Unless the complaint is filed within the period prescribed in Subsection 20A-4-403(3), a court may not:
(a) allow an action contesting the bond election to be maintained; or
(b) set aside or hold the bond election invalid.

Enacted by Chapter 105, 2005 General Session

Part 3
Issuance of Bonds

11-14-301 Issuance of bonds by governing body -- Computation of indebtedness under constitutional and statutory limitations.
(1) If the governing body has declared the bond proposition to have carried and no contest has been filed, or if a contest has been filed and favorably terminated, the governing body may proceed to issue the bonds voted at the election.
(2)
(a) It is not necessary that all of the bonds be issued at one time, but, except as otherwise provided in this Subsection (2), bonds approved by the voters may not be issued more than 10 years after the day on which the election is held.
(b) The 10-year period described in Subsection (2)(a) is tolled if, at any time during the 10-year period:
(i) an application for a referendum petition is filed with a local clerk, in accordance with Section 20A-7-602, with respect to the local obligation law relating to the bonds; or
(ii) the bonds are challenged in a court of law or an administrative proceeding in relation to:
(A) the legality or validity of the bonds, or the election or proceedings authorizing the bonds;
(B) the authority of the local political subdivision to issue the bonds;
(C) the provisions made for the security or payment of the bonds; or
(D) any other issue that materially and adversely affects the marketability of the bonds, as determined by the individual or body that holds the executive powers of the local political subdivision.
(c) For a bond described in this section that is approved by voters on or after May 8, 2002, but before May 14, 2019, a tolling period described in Subsection (2)(b)(i) ends on the later of the day on which:
(i) the local clerk determines that the petition is insufficient, in accordance with Subsection 20A-7-607(3), unless an application, described in Subsection 20A-7-607(4)(a), is made to a court;
(ii) a court determines, under Subsection 20A-7-607(4)(c), that the petition for the referendum is not legally sufficient; or
(iii) for a referendum petition that is sufficient, the governing body declares, as provided by law, the results of the referendum election on the local obligation law.
(d) For a bond described in this section that was approved by voters on or after May 14, 2019, a tolling period described in Subsection (2)(b)(i) ends:

(i) if a county, city, town, metro township, or court determines, under Section 20A-7-602.7, that the proposed referendum is not legally referable to voters, the later of:

(A) the day on which the county, city, town, or metro township provides the notice described in Subsection 20A-7-602.7(1)(b)(ii); or

(B) if a sponsor appeals, under Subsection 20A-7-602.7(4), the day on which a court decision that the proposed referendum is not legally referable to voters becomes final; or

(ii) if a county, city, town, metro township, or court determines, under Section 20A-7-602.7, that the proposed referendum is legally referable to voters, the later of:

(A) the day on which the local clerk determines, under Section 20A-7-607, that the number of certified names is insufficient for the proposed referendum to appear on the ballot; or

(B) if the local clerk determines, under Section 20A-7-607, that the number of certified names is sufficient for the proposed referendum to appear on the ballot, the day on which the governing body declares, as provided by law, the results of the referendum election on the local obligation law.

(e) A tolling period described in Subsection (2)(b)(ii) ends after:

(i) there is a final settlement, a final adjudication, or another type of final resolution of all challenges described in Subsection (2)(b)(ii); and

(ii) the individual or body that holds the executive powers of the local political subdivision issues a document indicating that all challenges described in Subsection (2)(b)(ii) are resolved and final.

(f) If the 10-year period described in Subsection (2)(a) is tolled under this Subsection (2) and, when the tolling ends and after giving effect to the tolling, the period of time remaining to issue the bonds is less than one year, the period of time remaining to issue the bonds shall be extended to one year.

(g) The tolling provisions described in this Subsection (2) apply to all bonds described in this section that were approved by voters on or after May 8, 2002.

(3)

(a) Bonds approved by the voters may not be issued to an amount that will cause the indebtedness of the local political subdivision to exceed that permitted by the Utah Constitution or statutes.

(b) In computing the amount of indebtedness that may be incurred pursuant to constitutional and statutory limitations, the constitutionally or statutorily permitted percentage, as the case may be, shall be applied to the fair market value, as defined under Section 59-2-102, of the taxable property in the local political subdivision, as computed from the last applicable equalized assessment roll before the incurring of the additional indebtedness.

(c) In determining the fair market value of the taxable property in the local political subdivision as provided in this section, the value of all tax equivalent property, as defined in Section 59-3-102, shall be included as a part of the total fair market value of taxable property in the local political subdivision, as provided in Title 59, Chapter 3, Tax Equivalent Property Act.

(4) Bonds of improvement districts issued in a manner that they are payable solely from the revenues to be derived from the operation of the facilities of the district may not be included as bonded indebtedness for the purposes of the computation.

(5) Where bonds are issued by a city, town, or county payable solely from revenues derived from the operation of revenue-producing facilities of the city, town, or county, or payable solely from a special fund into which are deposited excise taxes levied and collected by the city, town, or county, or excise taxes levied by the state and rebated pursuant to law to the city, town, or county, or any combination of those excise taxes, the bonds shall be included as bonded indebtedness of the city, town, or county only to the extent required by the Utah Constitution,

and any bonds not so required to be included as bonded indebtedness of the city, town, or county need not be authorized at an election, except as otherwise provided by the Utah Constitution, the bonds being hereby expressly excluded from the election requirement of Section 11-14-201.

(6) A bond election is not void when the amount of bonds authorized at the election exceeded the limitation applicable to the local political subdivision at the time of holding the election, but the bonds may be issued from time to time in an amount within the applicable limitation at the time the bonds are issued.

(7)

(a) A local political subdivision may not receive, from the issuance of bonds approved by the voters at an election, an aggregate amount that exceeds by more than 2% the maximum principal amount stated in the bond proposition.

(b) The provision in Subsection (7)(a) applies to bonds issued pursuant to an election held after January 1, 2019.

Amended by Chapter 325, 2022 General Session

11-14-302 Resolution -- Negotiability -- Registration -- Maturity -- Interest -- Payment -- Redemption -- Combining issues -- Sale -- Financing plan.

(1)

(a) Bonds issued under this chapter:

(i) shall:

(A) be authorized by resolution of the governing body;

(B) be fully negotiable for all purposes;

(C) mature at such time or times not more than 40 years from their date;

(D) bear interest at such rate or rates, if any;

(E) be payable at such place or places;

(F) be in such form;

(G) be executed in such manner;

(H) be sold in such manner and at such prices, either at, in excess of, or below face value; and

(I) be issued in such manner and with such details as may be provided by resolution; and

(ii) may be made:

(A) registrable as to principal alone or as to principal and interest; or

(B) redeemable prior to maturity at such times and on such terms.

(b) Interest rate limitations elsewhere appearing in the laws of Utah do not apply to nor limit the rate of interest on bonds issued under this chapter.

(2)

(a) If the bonds bear interest at a variable rate or rates, the resolution described in Subsection (1)(a)(i)(A) shall provide for the establishment of a method or methods by which the interest rate or rates on the bonds may be determined.

(b) If the resolution specifies a method by which interest on the bonds may be determined, the resolution shall also specify the maximum rate of interest the bonds may bear.

(c) Bonds voted for different purposes by separate propositions at the same or different bond elections may in the discretion of the governing body be combined and offered for sale as one issue of bonds.

(d) The resolution providing for this combination and the printed bonds for the combined issue shall separately set forth the amount being issued for each of the purposes provided for in each proposition submitted to the electors.
(e) If the local political subdivision has retained a fiscal agent to assist and advise it with respect to the bonds and the fiscal agent has received or is to receive a fee for such services, the bonds may be sold to the fiscal agent but only if the sale is made pursuant to a sealed bid submitted by the fiscal agent at an advertised public sale.
(f) The governing body may, by resolution, delegate to one or more officers of the local political subdivision the authority to:
(i) in accordance with and within the parameters set forth in the resolution, approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and
(ii) approve and execute all documents relating to the issuance of a bond.
(3)
(a)
(i) All bonds shall be paid by the treasurer of the local political subdivision or the treasurer's duly authorized agent on their respective maturity dates or on the dates fixed for the bonds redemption.
(ii) All bond coupons, other than coupons cancelled because of the redemption of the bonds to which they apply, shall similarly be paid on their respective dates or as soon thereafter as the bonds or coupons are surrendered.
(b) Upon payment of a bond or coupon, the treasurer of the local political subdivision or the treasurer's duly authorized agent, shall perforate the bond or coupon with a device suitable to indicate payment.
(c) Any bonds or coupons which have been paid or cancelled may be destroyed by the treasurer of the local political subdivision or by the treasurer's duly authorized agent.
(4)
(a) Bonds, bond anticipation notes, or tax anticipation notes with maturity dates of one year or less may be authorized by a local political subdivision from time to time pursuant to a plan of financing adopted by the governing body.
(b) The plan of financing shall specify the terms and conditions under which the bonds or notes may be issued, sold, and delivered, the officers of the local political subdivision authorized to issue the bonds or notes, the maximum amount of bonds or notes which may be outstanding at any one time, the source or sources of payment of the bonds or notes, and all other details necessary for issuance of the bonds or notes.
(c) Subject to the Constitution, the governing body of the local political subdivision may include in the plan of financing the terms and conditions of agreements which may be entered into by the local political subdivision with banking institutions for letters of credit or for standby letters of credit to secure the bonds or notes, including payment from any legally available source of fees, charges, or other amounts coming due under the agreements entered into by the local political subdivision.

Amended by Chapter 145, 2011 General Session

11-14-303 Bonds, notes, or other obligations of political subdivisions exempt from taxation except corporate franchise tax.

All bonds, notes, or other obligations issued under this chapter or under any other law authorizing the issuance of bonds, notes, or indebtedness by a local political subdivision or any

other political subdivision now existing or subsequently created under the laws of Utah, including bonds payable solely from special assessments and tax anticipation indebtedness, and the interest on them shall be exempt from all taxation in this state, except for the corporate franchise tax.

Amended by Chapter 83, 2006 General Session

11-14-304 Facsimile signatures and facsimile seal, use permitted -- Validity of signed bonds.

(1) If the use of a facsimile signature is authorized by the body empowered by law to authorize the issuance of the bonds or other obligations of any agency, instrumentality, or institution of this state or of any municipal corporation, political subdivision, improvement district, taxing district, or other governmental entity within the state, whether or not issued under this chapter, any officer so authorized may execute, authenticate, certify, or endorse, or cause to be executed, authenticated, certified, or endorsed the bond or other obligation, or any certificate required to be executed on the back thereof, with a facsimile signature in lieu of his manual signature if at least one signature required or permitted to be placed on the face thereof shall be manually subscribed. Upon compliance with this chapter by the authorized officer, his facsimile signature has the same legal effect as his manual signature. When any seal is required in the execution, authentication, certification, or endorsement of the bond or other obligation, or any certificate required to be executed on the back thereof, the authorized officer may cause the seal to be printed, engraved, lithographed, stamped, or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

(2) Bonds or other obligations bearing the signatures (manual or facsimile) of officers in office on the date of the execution thereof shall be valid and binding obligations notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be officers of the local political subdivision.

Renumbered and Amended by Chapter 105, 2005 General Session

11-14-304.5 Recital in bonds -- Incontestability.

(1) In the resolution authorizing bonds to be issued as provided in this chapter or other applicable law, a local political subdivision may require that the bonds recite that they are issued under authority of this chapter or other applicable law.

(2)

(a) A bond recital as provided in Subsection (1) conclusively establishes full compliance with all the provisions of applicable law.

(b) All bonds issued containing a recital as provided in Subsection (1) shall be incontestable for any reason after their delivery for value.

Enacted by Chapter 83, 2006 General Session

11-14-305 Registration, denominations, and exchange of obligations.

(1) As used in this section, "obligations" means bonds, bond anticipation notes, and tax anticipation notes.

(2) Unless otherwise provided by the local political subdivision, Title 15, Chapter 7, Registered Public Obligations Act, governs and applies to all obligations issued in registered form. If Title 15, Chapter 7, Registered Public Obligations Act, is inapplicable to an issue of obligations, Subsection (3) governs and applies with respect to such issue.

(3) Any obligations issued under this chapter may be issued in denominations as determined by the governing body. The governing body may provide for the exchange of any of these obligations after issuance for obligations of larger or smaller denominations in such manner as may be provided in the authorizing resolution, provided the obligations in changed denominations shall be exchanged for the original obligations in like aggregate principal amounts and in such manner that no overlapping interest is paid; and such obligations in changed denominations shall bear interest at the same rate or rates, if any, shall mature on the same date or dates, shall be as nearly as practicable in the same form except for an appropriate recital as to the exchange, and shall in all other respects, except as to denominations and numbers, be identical with the original obligations surrendered for exchange. Where any exchange is made under this section, the obligations surrendered by the holders at the time of exchange shall be cancelled; any such exchange shall be made only at the request of the holders of the obligations to be surrendered; and the governing body may require all expenses incurred in connection with such exchange, including the authorization and issuance of the new obligations, to be paid by such holders.

Amended by Chapter 83, 2006 General Session

11-14-306 Additional pledge for general obligation bonds -- Revenue bonds -- Resolution.

(1) To the extent constitutionally permissible, local political subdivisions may pledge as an additional source of payment for their general obligation bonds all or any part of revenues, fees, and charges attributable to the operation or availability of facilities or may issue bonds payable solely from such revenues, fees, or charges.

(2)

(a) The governing body may issue bonds payable solely from revenues, fees, or charges attributable to extensions and improvements to revenue-producing facilities.

(b) If the governing body issues bonds under Subsection (2)(a), the resolution authorizing these bonds shall set forth as a finding of the governing body:

(i) the value of the then existing facility and the value of this facility after completion of the extensions or improvements proposed to be constructed; and

(ii) that portion of the revenues, fees, or charges derived from the entire facility when the contemplated extensions and improvements are completed which the value of the existing facility bears to the value of the facility after completion shall be considered to be revenue derived from the existing facility and the remainder may be set aside and pledged to the payment of the principal of and interest on the bonds and for the establishment of appropriate reserve fund or funds, and such portion shall be considered to be revenue derived exclusively from the extensions and improvements.

(3)

(a) Any resolution or trust indenture authorizing bonds to which such revenues, fees, or charges are pledged may contain such covenants with the future holder or holders of the bonds as to the management and operation of the affected facilities, the imposition, collection, and disposition of rates, fees, and charges for commodities and services furnished thereby, the issuance of future bonds, the creation of future liens and encumbrances against the facilities, the carrying of insurance, the keeping of books and records, the deposit and paying out of revenues, fees, or charges and bond proceeds, the appointment and duties of a trustee, and other pertinent matters as may be considered proper by the governing body.

(b) If the revenue, fee, or charge so pledged involves either sewer or water revenues, fees, or charges or both sewer and water revenues, fees, or charges, provision may be made

for charges for sewer services and water services to be billed in a single bill and for the suspension of water or sewer services, or both, to any customer who shall become delinquent in the payment due for either.

(c) Provision may be made for the securing of such bonds by a trust indenture, but no such indenture shall convey, mortgage, or create any lien upon property of the local political subdivision.

(d) Either the bond resolution or such trust indenture may impose in the holders of the bonds full rights to enforce the provisions thereof, and may include terms and conditions upon which the holders of the bonds or any proportion of them, or a trustee therefor, shall be entitled to the appointment of a receiver who may enter and take possession of the facility or facilities, the revenues, fees, or charges of which are so pledged, and may operate and maintain them, prescribe charges and collect, receive, and apply all revenues, fees, or charges therefrom arising in the same manner as the local political subdivision itself might do.

Amended by Chapter 83, 2006 General Session

11-14-307 Revenue bonds payable out of excise tax revenues.

(1) To the extent constitutionally permissible, a city, town, or county may:

(a) issue bonds payable solely from a special fund into which are to be deposited:

(i) excise taxes levied and collected by the city, town, or county;

(ii) excise taxes levied by the state and rebated pursuant to law to the city, town, or county; or

(iii) a combination of the excise taxes described in Subsections (1)(a)(i) and (ii); or

(b) pledge all or any part of the excise taxes described in Subsection (1)(a) as an additional source of payment for general obligation bonds it issues.

(2)

(a) If the covenant is not inconsistent with this chapter, a resolution or trust indenture providing for the issuance of bonds payable in whole or in part from the proceeds of excise tax revenues may contain covenants with the holder or holders of the bonds as to:

(i) the excise tax revenues;

(ii) the disposition of the excise tax revenues;

(iii) the issuance of future bonds; and

(iv) other pertinent matters that are considered necessary by the governing body to assure the marketability of those bonds.

(b) A resolution may also include provisions to insure the enforcement, collection, and proper application of excise tax revenues as the governing body may think proper.

(c) The proceeds of bonds payable in whole or in part from pledged class B or C road funds shall be used to construct, repair, and maintain streets and roads in accordance with Sections 72-6-108 and 72-6-110 and to fund any reserves and costs incidental to the issuance of the bonds.

(d) When any bonds payable from excise tax revenues have been issued, the resolution or other enactment of the legislative body imposing the excise tax and pursuant to which the tax is being collected, the obligation of the governing body to continue to levy, collect, and allocate the excise tax, and to apply the revenues derived from the excise tax in accordance with the provisions of the authorizing resolution or other enactment, shall be irrevocable until the bonds have been paid in full as to both principal and interest, and is not subject to amendment in any manner that would impair the rights of the holders of those bonds or which would in any way jeopardize the timely payment of principal or interest when due.

(3)

(a) The state pledges to and agrees with the holders of any bonds issued by a city, town, or county to which the proceeds of excise taxes collected by the state and rebated to the city, town, or county are devoted or pledged as authorized in this section, that the state will not alter, impair, or limit the excise taxes in a manner that reduces the amounts to be rebated to the city, town, or county which are devoted or pledged as authorized in this section until the bonds or other securities, together with applicable interest, are fully met and discharged.
(b) Nothing in this Subsection (3) precludes alteration, impairment, or limitation of excise taxes if adequate provision is made by law for the protection of the holders of the bonds.
(c) A city, town, or county may include this pledge and undertaking for the state in those bonds.
(4)
(a) Outstanding bonds to which excise tax revenues are pledged as the sole source of payment may not at any one time exceed an amount for which the average annual installments of principal and interest will exceed 80% of the total excise tax revenues received by the issuing entity from the collection or rebate of the excise tax revenues during the fiscal year of the issuing entity immediately preceding the fiscal year in which the resolution authorizing the issuance of bonds is adopted.
(b) If an excise tax has not been levied by a city, town, or county for a sufficient period of time to determine the 80% bond payment requirement under Subsection (4)(a), a city, town, or county may use an excise tax revenue that is currently levied within the same geographic coverage area and with the same percentage of collection to determine the amount of excise tax revenues that are expected to be received to determine the 80% bond payment requirement under Subsection (4)(a).
(5) Bonds issued solely from a special fund into which are to be deposited excise tax revenues constitutes a borrowing solely upon the credit of the excise tax revenues received or to be received by the city, town, or county and does not constitute an indebtedness or pledge of the general credit of the city, town, or county.
(6) Before issuing any bonds under this section, a city, town, or county shall comply with Section 11-14-318.
(7) A city, town, or county shall submit the question of whether or not to issue any bonds under this section to voters for their approval or rejection if, within 30 calendar days after the notice required by Section 11-14-318, a written petition requesting an election and signed by at least 20% of the registered voters in the city, town, or county is filed with the city, town, or county.

Amended by Chapter 21, 2008 General Session

11-14-308 Special service district bonds secured by federal mineral lease payments -- Use of bond proceeds -- Bond resolution -- Nonimpairment of appropriation formula -- Issuance of bonds.

(1) Special service districts may:
(a) issue bonds payable, in whole or in part, from federal mineral lease payments which are to be deposited into the Mineral Lease Account under Section 59-21-1 and distributed to special service districts under Subsection 59-21-2(2)(h); or
(b) pledge all or any part of the mineral lease payments described in Subsection (1)(a) as an additional source of payment for their general obligation bonds.
(2) The proceeds of these bonds may be used:
(a) to construct, repair, and maintain streets and roads;
(b) to fund any reserves and costs incidental to the issuance of the bonds and pay any associated administrative costs; and

(c) for capital projects of the special service district.

(3)

(a) The special service district board shall enact a resolution authorizing the issuance of bonds which, until the bonds have been paid in full:

(i) shall be irrevocable; and

(ii) may not be amended in any manner that would:

(A) impair the rights of the bond holders; or

(B) jeopardize the timely payment of principal or interest when due.

(b) Notwithstanding any other provision of this chapter, the resolution described in Subsection (3)(a) may contain covenants with the bond holder regarding:

(i) mineral lease payments, or their disposition;

(ii) the issuance of future bonds; or

(iii) other pertinent matters considered necessary by the governing body to:

(A) assure the marketability of the bonds; or

(B) insure the enforcement, collection, and proper application of mineral lease payments.

(4)

(a) Except as provided in Subsection (4)(b), the state may not alter, impair, or limit the statutory appropriation formula provided in Subsection 59-21-2(2)(h), in a manner that reduces the amounts to be distributed to the special service district until the bonds and the interest on the bonds are fully met and discharged. Each special service district may include this pledge and undertaking of the state in these bonds.

(b) Nothing in this section:

(i) may preclude the alteration, impairment, or limitation of these bonds if adequate provision is made by law for the protection of the bond holders; or

(ii) shall be construed:

(A) as a pledge guaranteeing the actual dollar amount ultimately received by individual special service districts;

(B) to require the Department of Transportation to allocate the mineral lease payments in a manner contrary to the general allocation method described in Subsection 59-21-2(2)(h); or

(C) to limit the Department of Transportation in making rules or procedures allocating mineral lease payments pursuant to Subsection 59-21-2(2)(h).

(5)

(a) The average annual installments of principal and interest on bonds to which mineral lease payments have been pledged as the sole source of payment may not at any one time exceed:

(i) 80% of the total mineral lease payments received by the issuing entity during the fiscal year of the issuing entity immediately preceding the fiscal year in which the resolution authorizing the issuance of bonds is adopted; or

(ii) if the bonds are issued during the first fiscal year the issuing entity is eligible to receive funds, 60% of the amount estimated by the Department of Transportation to be appropriated to the issuing entity in that fiscal year.

(b) The Department of Transportation is not liable for any loss or damage resulting from reliance on the estimates.

(6) The final maturity date of the bonds may not exceed 15 years from the date of their issuance.

(7) Bonds which are payable solely from a special fund into which mineral lease payments are deposited constitute a borrowing based solely upon the credit of the mineral lease payments received or to be received by the special service district and do not constitute an indebtedness or pledge of the general credit of the special service district or the state.

(8) No bond issuance shall be invalid or impaired solely because the bonds were issued under this section during the period beginning January 1, 2021 and ending May 3, 2023.

Amended by Chapter 241, 2023 General Session

11-14-309 Refunding bonds -- Limitation on redemption of bonds.

(1) Any bond issued under this chapter may be refunded as provided in the Utah Refunding Bond Act.
(2) Nothing contained in this chapter nor in any other law of this state may be construed to permit any local political subdivision to call outstanding bonds for redemption in order to refund those bonds or in order to pay them prior to their stated maturities, unless:
  (a) the right to call the bonds for redemption was specifically reserved and stated in the bonds at the time of their issuance; and
  (b) all conditions with respect to the manner, price, and time applicable to the redemption as set forth in the proceedings authorizing the outstanding bonds are strictly observed.
(3) A holder of an outstanding bond may not be compelled to surrender the bond for refunding before its stated maturity or optional date of redemption expressly reserved in the bond, even though the refunding might result in financial benefit to the local political subdivision issuing the bond.

Renumbered and Amended by Chapter 105, 2005 General Session

11-14-310 General obligation bonds -- Levy and collection of taxes.

(1)
  (a)
    (i) Any bonds issued under this chapter that are not payable solely from revenues other than those derived from ad valorem taxes are full general obligations of the local political subdivision.
    (ii) The local political subdivision's full faith and credit is pledged for the prompt and punctual payment of principal of and interest on the local political subdivision's general obligation bonds.
    (iii) A local political subdivision is required, regardless of any limitations that may otherwise exist on the amount of taxes that the local political subdivision may levy, to provide for the annual levy and collection of ad valorem taxes, without limitation as to the rate or amount, on all taxable property in the local political subdivision fully sufficient for the payment of principal and interest on the local political subdivision's general obligation bonds as the principal and interest become due.
    (iv) If by law ad valorem taxes for the local political subdivision are levied by a board other than its governing body:
      (A) the taxes shall be levied by the other board; and
      (B) the local political subdivision shall, each year, provide the levying board with all information necessary to levy the taxes in the required amount.
    (v) Taxes levied under Subsection (1)(a)(iv) shall be levied and collected by the same officers, at the same time, and in the same manner as are other taxes levied for the local political subdivision.
  (b) The pledge of the taxes levied under this section shall constitute an automatically arising first lien on the taxes as provided in Section 11-14-501.
  (c)

(i) A local school board may use revenues remaining from a tax levied under this section for school district technology programs or projects after the principal of and premium and interest on the district's general obligation bonds have been paid for the applicable period for which the taxes were levied.
(ii) A lien created pursuant to Section 11-14-501 does not attach to any technology programs or projects paid for from the remaining tax revenues under Subsection (1)(c)(i).
(2)
(a) If a local political subdivision neglects or fails for any reason to levy or collect or to cause to be levied or collected sufficient taxes for the prompt and punctual payment of such principal and interest, a person in interest may enforce levy and collection of sufficient taxes in a court having jurisdiction of the subject matter.
(b) A suit, action, or proceeding brought by a person in interest under Subsection (2)(a) shall be a preferred cause and shall be heard and disposed of without delay.
(c) All provisions of the constitution and laws relating to the collection of county and municipal taxes and tax sales apply to and regulate the collection of the taxes levied pursuant to this section, through the officer whose duty it is to collect the taxes and money due the local political subdivision.

Amended by Chapter 366, 2020 General Session

11-14-311 Bond anticipation notes.
(1)
(a) If the governing body considers it advisable and in the interests of the local political subdivision to anticipate the issuance of bonds to be issued under this chapter, the governing body may, pursuant to appropriate resolution, issue bond anticipation notes.
(b) Each resolution authorizing the issuance of bond anticipation notes shall:
(i) describe the bonds in anticipation of which the notes are to be issued;
(ii) specify the principal amount of the notes and the maturity dates of the notes; and
(iii) specify either the rates of interest, if any, on the notes or the method by which interest on the notes may be determined while the notes are outstanding.
(c) If the resolution specifies a method by which the interest rates on the notes may be determined, the resolution may specify the maximum rate of interest which the notes may bear.
(2) Bond anticipation notes shall be issued and sold in a manner and at a price, either at, below, or above face value, as the governing body determines by resolution. Interest on bond anticipation notes may be made payable semiannually, annually, or at maturity. Bond anticipation notes may be made redeemable prior to maturity at the option of the governing body in the manner and upon the terms fixed by the resolution authorizing their issuance. Bond anticipation notes shall be executed and shall be in a form and have details and terms as provided in the authorizing resolution.
(3) Contemporaneously with the issuance of the bonds in anticipation of which bond anticipation notes are issued, provision shall be made for the retirement of any outstanding bond anticipation notes.
(4) Whenever the bonds in anticipation of which notes are issued are to be payable from ad valorem taxes and constitute full general obligations of the local political subdivision, the bond anticipation notes and the interest on them shall be secured by a pledge of the full faith and credit of the local political subdivision in the manner provided in Section 11-14-310 and shall also be made payable from funds derived from the sale of the bonds in anticipation of which the

notes are issued. Whenever the bonds in anticipation of which the notes are to be issued are to be payable solely from revenues derived from the operation of revenue-producing facilities, these bond anticipation notes and the interest on them shall be secured by a pledge of the income and revenues derived by the local political subdivision from the revenue-producing facilities and shall also be made payable from funds derived from the sale of the bonds in anticipation of which the notes are issued.

(5) Bond anticipation notes issued under this section may be refunded by the issuance of other bond anticipation notes issued under this section.

(6) Sections 11-14-304, 11-14-305, 11-14-315, 11-14-316, and 11-14-401 apply to all bond anticipation notes issued under this section.

(7) Bonds are not considered to have been issued outside of the 10-year period described in Section 11-14-301, if the issuance of the bonds is anticipated under this section by bond anticipation notes issued before the expiration of the 10-year period.

Amended by Chapter 204, 2012 General Session

11-14-312 Prior bonds validated -- Exceptions.

All bonds issued by any local political subdivision before May 1, 2006, and all proceedings had in the authorization and issuance of them are hereby validated, ratified, and confirmed; and all such bonds are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section shall be construed to affect or validate any bonds, the legality of which is being contested as of May 1, 2006.

Amended by Chapter 83, 2006 General Session

11-14-313 Issuance of negotiable notes or bonds authorized -- Limitation on amount of tax anticipation notes or bonds -- Procedure.

(1)

(a) For the purpose of meeting the current expenses of the local political subdivision and for any other purpose for which funds of the local political subdivision may be expended, a local political subdivision may, if authorized by a resolution of its governing body, borrow money by issuing its negotiable notes or bonds in an initial principal amount:

(i) not in excess of 90% of the taxes and other revenues of the local political subdivision for the current fiscal year, if the notes or bonds are issued after the annual tax levy for taxes falling due during the fiscal year in which the notes or bonds are issued;

(ii) not in excess of 75% of the taxes and other revenues of the local political subdivision for the preceding fiscal year, if the notes or bonds are issued prior to the annual tax levy for taxes falling due during the fiscal year in which the bonds or notes are issued; or

(iii) not in excess of 75% of the taxes and other revenues that the governing body of the local political subdivision estimates that the local political subdivision will receive for the current fiscal year, if the notes or bonds are issued within 24 months following the creation of the local political subdivision.

(b) The proceeds of the notes or bonds shall be applied only in payment of current and necessary expenses and other purposes for which funds of the local political subdivision may be expended.

(c) There shall be included in the annual levy a tax and there shall be provision made for the imposition and collection of sufficient revenues other than taxes sufficient to pay the notes or bonds at maturity.

(d) If the taxes and other revenues in any one year are insufficient through delinquency or uncollectibility of taxes or other cause to pay when due all the lawful debts of the local political subdivision which have been or may hereafter be contracted, the governing body of the local political subdivision is authorized and directed to levy and collect in the next succeeding year a sufficient tax and to provide for the imposition and collection of sufficient revenues other than taxes to pay all of such lawfully contracted indebtedness, and may borrow as provided in this section in anticipation of such tax and other revenues to pay any such lawfully contracted indebtedness.

(e) Each resolution authorizing the issuance of tax anticipation notes or bonds shall:

(i) describe the taxes or revenues in anticipation of which the notes or bonds are to be issued; and

(ii) specify the principal amount of the notes or bonds, any interest rates, including a variable interest rate, the notes or bonds shall bear, and the maturity dates of the notes or bonds, which dates may not extend beyond the last day of the issuing local political subdivision's fiscal year.

(2) Tax anticipation notes or bonds shall be issued and sold in such manner and at such prices, whether at, below, or above face value, as the governing body shall by resolution determine. Tax anticipation notes or bonds shall be in bearer form, except that the governing body may provide for the registration of the notes or bonds in the name of the owner, either as to principal alone, or as to principal and interest. Tax anticipation notes or bonds may be made redeemable prior to maturity at the option of the governing body in the manner and upon the terms fixed by the resolution authorizing their issuance. Tax anticipation notes or bonds shall be executed and shall be in such form and have such details and terms as shall be provided in the authorizing resolution.

(3) The provisions of Sections 11-14-303, 11-14-304, 11-14-305, 11-14-313, 11-14-315, 11-14-316, 11-14-401, 11-14-403, and 11-14-404 shall apply to all tax anticipation notes or bonds issued under this section. In applying these sections to tax anticipation notes, "bond" or "bonds" as used in these sections shall be deemed to include tax anticipation notes.

Amended by Chapter 378, 2010 General Session

11-14-314 Tax anticipation obligations validated.

All obligations issued in anticipation of the collection of taxes and other revenues by any local political subdivision before May 1, 2006, and all proceedings had in the authorization and issuance of them are validated, ratified, and confirmed; and all these obligations are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section shall be construed to affect or validate any of these obligations, the legality of which is being contested as of May 1, 2006.

Amended by Chapter 83, 2006 General Session

11-14-315 Nature and validity of bonds issued -- Applicability of other statutory provisions -- Budget provision required -- Applicable procedures for issuance -- Notice.

Bonds issued under this chapter shall have all the qualities of negotiable paper, shall be incontestable in the hands of bona fide purchasers or holders for value and are not invalid for any irregularity or defect in the proceedings for their issuance and sale. This chapter is intended to afford an alternative method for the issuance of bonds by local political subdivisions and may not be so construed as to deprive any local political subdivision of the right to issue its bonds

under authority of any other statute, but nevertheless this chapter shall constitute full authority for the issue and sale of bonds by local political subdivisions. The provisions of Section 11-1-1 are not applicable to bonds issued under this chapter. Any local political subdivision subject to the provisions of any budget law shall in its annual budget make proper provision for the payment of principal and interest currently falling due on bonds issued hereunder, but no provision need be made in any such budget prior to the issuance of the bonds for the issuance thereof or for the expenditure of the proceeds thereof. No ordinance, resolution or proceeding in respect to the issuance of bonds hereunder shall be necessary except as herein specifically required, nor shall the publication of any resolution, proceeding or notice relating to the issuance of the bonds be necessary except as herein required. Any publication made hereunder shall be made by providing notice for the local political subdivision, as a class A notice under Section 63G-30-102. No resolution adopted or proceeding taken hereunder shall be subject to referendum petition or to an election other than as herein required. All proceedings adopted hereunder may be adopted on a single reading at any legally convened meeting of the governing body.

Amended by Chapter 435, 2023 General Session

11-14-316 Publication of notice, resolution, or other proceeding -- Contest.

(1) The governing body of any local political subdivision may provide for the publication of any resolution or other proceeding adopted under this chapter:
  (a) for the local political subdivision, as a class A notice under Section 63G-30-102, for at least 30 days; and
  (b) as required in Section 45-1-101.
(2) When a resolution or other proceeding provides for the issuance of bonds, the governing body may, in lieu of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued, titled as such, containing:
  (a) the name of the issuer;
  (b) the purpose of the issue;
  (c) the type of bonds and the maximum principal amount which may be issued;
  (d) the maximum number of years over which the bonds may mature;
  (e) the maximum interest rate which the bonds may bear, if any;
  (f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold;
  (g) a general description of the security pledged for repayment of the bonds;
  (h) the total par amount of bonds currently outstanding that are secured by the same pledge of revenues as the proposed bonds, if any;
  (i) information on a method by which an individual may obtain access to more detailed information relating to the outstanding bonds of the local political subdivision;
  (j) the estimated total cost to the local political subdivision for the proposed bonds if the bonds are held until maturity, based on interest rates in effect at the time that the local political subdivision publishes the notice; and
  (k) the times and place where a copy of the resolution or other proceeding may be examined, which shall be:
    (i) at an office of the issuer identified in the notice, during regular business hours of the issuer as described in the notice; and
    (ii) for a period of at least 30 days after the publication of the notice.
(3) For a period of 30 days after the publication, any person in interest may contest:
  (a) the legality of such resolution or proceeding;

(b) any bonds which may be authorized by such resolution or proceeding; or
(c) any provisions made for the security and payment of the bonds.
(4) A person shall contest the matters set forth in Subsection (3) by filing a verified written complaint in the district court of the county in which he resides within the 30-day period.
(5) After the 30-day period, no person may contest the regularity, formality, or legality of the resolution or proceeding for any reason.

Amended by Chapter 435, 2023 General Session

11-14-317 Bonds as legal investments -- Use as security for the faithful performance of acts.
(1) All bonds issued under this chapter or other applicable law shall be legal investments for:
(a) all trust funds, including those under the jurisdiction of the state;
(b) the funds of all insurance companies, banks, and both commercial and savings and trust companies;
(c) the state school funds; and
(d) all sinking funds under the control of the state treasurer.
(2) If funds may by law be invested in or loaned upon the security of bonds of a county, city, or school district, funds may be invested in or loaned upon the security of the bonds of any other local political subdivision.
(3) If bonds of a county, city, or school district may by law be used as security for the faithful performance on execution of any court or private trust or any other act, the bonds of any other local political subdivision may be used in the same way.

Enacted by Chapter 83, 2006 General Session

11-14-318 Public hearing required -- Notice.
(1) Before issuing bonds authorized under this chapter, a local political subdivision shall:
(a) in accordance with Subsection (2), provide public notice of the local political subdivision's intent to issue bonds; and
(b) hold a public hearing:
(i) if an election is required under this chapter:
(A) no sooner than 30 days before the day on which the notice of election is published under Section 11-14-202; and
(B) no later than five business days before the day on which the notice of election is published under Section 11-14-202; and
(ii) to receive input from the public with respect to:
(A) the issuance of the bonds; and
(B) the potential economic impact that the improvement, facility, or property for which the bonds pay all or part of the cost will have on the private sector.
(2) A local political subdivision shall:
(a) publish the notice required by Subsection (1)(a) for the local political subdivision, as a class A notice under Section 63G-30-102, for no less than 14 days before the day of the public hearing required by Subsection (1)(b); and
(b) ensure that the notice:
(i) identifies:
(A) the purpose for the issuance of the bonds;
(B) the maximum principal amount of the bonds to be issued;
(C) the taxes, if any, proposed to be pledged for repayment of the bonds; and

(D) the time, place, and location of the public hearing; and
(ii) informs the public that the public hearing will be held for the purposes described in Subsection (1)(b)(ii).

Amended by Chapter 435, 2023 General Session

Part 4
Miscellaneous Provisions

11-14-401 Short title -- Title to appear on face of bonds -- Effect of future statutes dealing with municipal bond issues.

(1) This chapter is known as the "Local Government Bonding Act."
(2) All bonds issued pursuant to authority contained in this chapter shall contain on their face a recital to that effect, and no chapter hereafter passed by the Legislature amending other chapters under which bonds authorized to be issued by this chapter might be issued or dealing with bond issues of local political subdivisions shall be construed to affect the authority to proceed under this chapter in the manner herein provided unless such future statute amends this chapter and specifically provides that it is to be applicable to bonds issued under this chapter.
(3) All bonds referencing the prior title of this chapter, "Utah Municipal Bond Act," that were issued prior to May 2, 2005 pursuant to the authority contained in this chapter shall be considered to reference this chapter and shall be construed according to the terms of Subsection (1) as if they refer to the current title of this chapter.

Renumbered and Amended by Chapter 105, 2005 General Session

11-14-402 Exemptions from application of chapter -- Exception.

(1) Except as provided in Subsection (2), this chapter does not apply to bonds issued by the state of Utah nor to bonds or obligations payable solely from special assessments levied on benefited property.
(2) Sections 11-14-303 and 11-14-501 have general application in accordance with their terms.

Renumbered and Amended by Chapter 105, 2005 General Session

11-14-403 Conflict of laws.

To the extent that any one or more provisions of this chapter shall be in conflict with any other law or laws, the provisions of this chapter shall be controlling.

Renumbered and Amended by Chapter 105, 2005 General Session

11-14-404 Severability clause.

If any one or more sentences, clauses, phrases, provisions or sections of this chapter or the application thereof to any set of circumstances shall be held by final judgment of any court of competent jurisdiction to be invalid, the remaining sentences, clauses, phrases, provisions and sections hereof and the application of this chapter to other sets of circumstances shall

nevertheless continue to be valid and effective, the legislature hereby declaring that all provisions of this chapter are severable.

Renumbered and Amended by Chapter 105, 2005 General Session

11-14-405 Validity of prior bond issues.

All bonds issued by any local political subdivision before May 1, 2006, and all proceedings had in the authorization and issuance of those bonds are hereby validated, ratified, and confirmed, and all those bonds are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section may be construed to affect or validate any bonds, the legality of which is being contested as of May 1, 2006.

Amended by Chapter 83, 2006 General Session

11-14-406 Application of chapter.

Sections 11-14-201, 11-14-202, 11-14-203, 11-14-204, 11-14-205, and 11-14-207 shall apply to all bond elections held by any local political subdivision and, except as otherwise provided in Section 11-14-402, by any other taxing district or governmental entity whether or not the bonds are issued under authority granted by this chapter.

Amended by Chapter 83, 2006 General Session

Part 5
Government Security Interests

11-14-501 Creation and perfection of government security interests.

(1) As used in this section:
  (a) "Bonds" means any bond, note, lease, or other obligation of a governmental unit.
  (b)
    (i) "General obligation bond" means a bond, note, warrant, certificate of indebtedness, or other obligation of a local political subdivision that:
      (A) is payable in whole or in part from revenues derived from ad valorem taxes; and
      (B) constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.
    (ii) "General obligation bond" includes a general obligation tax, revenue, or bond anticipation note issued by a local political subdivision that is payable in whole or in part from revenues derived from ad valorem taxes.
  (c) "Governmental unit" has the meaning assigned in Section 70A-9a-102.
  (d) "Pledge" means the creation of a security interest of any kind.
  (e) "Property" means any property or interests in property, other than real property.
  (f) "Security agreement" means any resolution, ordinance, indenture, document, or other agreement or instrument under which the revenues, fees, rents, charges, taxes, or other property are pledged to secure the bonds.
(2) This section expressly governs the creation, perfection, priority, and enforcement of a security interest created by the state or a governmental unit of the state, notwithstanding anything in Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, to the contrary.

(3)
(a) The revenues, fees, rents, charges, taxes, or other property pledged by a governmental unit for the purpose of securing its bonds are immediately subject to the lien of the pledge.
(b)
(i) The lien is a perfected lien upon the effective date of the security agreement.
(ii) The physical delivery, filing, or recording of a security agreement or financing statement under the Uniform Commercial Code or otherwise, or any other similar act, is not necessary to perfect the lien.
(c) The lien of any pledge is valid, binding, perfected, and enforceable from the time the pledge is made.
(d) The lien of the pledge has priority:
(i) based on the time of the creation of the pledge unless otherwise provided in the security agreement; and
(ii) as against all parties having claims of any kind in tort, contract, or otherwise against the governmental unit, regardless of whether or not the parties have notice of the lien.
(e) Each pledge and security agreement made for the benefit or security of any of the bonds shall continue to be effective until:
(i) the principal, interest, and premium, if any, on the bonds have been fully paid;
(ii) provision for payment has been made; or
(iii) the lien created by the security agreement has been released by agreement of the parties in interest or as provided by the security agreement that created the lien.
(4)
(a) General obligation bonds issued and sold by or on behalf of a local political subdivision shall be secured by a first statutory lien on all revenues received pursuant to the levy and collection of ad valorem taxes.
(b) The lien described in Subsection (4)(a):
(i) arises and attaches immediately to the ad valorem tax revenues without the need for any action or authorization by the local political subdivision;
(ii) is valid and binding from the time the general obligation bonds are executed and delivered; and
(iii) is effective, binding, and enforceable against the local political subdivision, its successors, transferees, and creditors, and all others asserting rights to the ad valorem tax revenues.
(c) A lien described in Subsection (4)(a) is enforceable against the parties described in Subsection (4)(b)(iii):
(i) regardless of whether the parties described in Subsection (4)(b)(iii) have notice of the lien; and
(ii) without the need for any physical delivery, recordation, filing, or further action.
(5) Any amounts appropriated or added to the tax levy to pay principal of and premium and interest on general obligation bonds:
(a) shall be applied solely to the payment of those general obligation bonds; and
(b) may not be used for any other purpose, except as provided by law.
(6) This section applies to all revenues received pursuant to the levy and collection of the ad valorem tax regardless of the date on which the general obligation bonds were issued.
(7) This section applies to all bonds, including bonds issued before or after the effective date of this section.

Amended by Chapter 366, 2020 General Session

Chapter 14a
Notice of Debt Issuance

11-14a-1 Notice of debt issuance.

(1) For purposes of this chapter:

(a)

(i) "Debt" includes bonds, lease purchase agreements, certificates of participation, and contracts with municipal building authorities.

(ii) "Debt" does not include tax and revenue anticipation notes or refunding bonds.

(b)

(i) "Local government entity" means a county, city, town, school district, special district, or special service district.

(ii) "Local government entity" does not mean an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act that has assets over $10,000,000.

(c) "New debt resolution" means a resolution authorizing the issuance of debt wholly or partially to fund a rejected project.

(d) "Rejected Project" means a project for which a local government entity sought voter approval for general obligation bond financing and failed to receive that approval.

(2) Unless a local government entity complies with the requirements of this section, it may not adopt a new debt resolution.

(3)

(a) Before adopting a new debt resolution, a local government entity shall advertise the local government entity's intent to issue debt by providing a notice of that intent for the local government entity, as a class A notice under Section 63G-30-102, for the two weeks before the meeting at which the resolution will be considered.

(b) The local government entity shall ensure that the notice:

(i) except for website publication, is at least as large as the bill or other mailing that it accompanies;

(ii) is entitled, in type size no smaller than 24 point, "Intent to Issue Debt"; and

(iii) contains the information required by Subsection (3)(c).

(c) The local government entity shall ensure that the advertisement or notice described in Subsection (3)(a):

(i) identifies the local government entity;

(ii) states that the entity will meet on a day, time, and place identified in the advertisement or notice to hear public comments regarding a resolution authorizing the issuance of debt by the entity and to explain to the public the reasons for the issuance of debt;

(iii) contains:

(A) the name of the entity that will issue the debt;

(B) the purpose of the debt; and

(C) that type of debt and the maximum principal amount that may be issued;

(iv) invites all concerned citizens to attend the public hearing; and

(v) states that some or all of the proposed debt would fund a project whose general obligation bond financing was rejected by the voters.

(4)

(a) The resolution considered at the hearing shall identify:

(i) the type of debt proposed to be issued;
(ii) the maximum principal amount that might be issued;
(iii) the interest rate;
(iv) the term of the debt; and
(v) how the debt will be repaid.

(b)

(i) Except as provided in Subsection (4)(b)(ii), the resolution considered at the hearing need not be in final form and need not be adopted or rejected at the meeting at which the public hearing is held.
(ii) The local government entity may not, in the final resolution, increase the maximum principal amount of debt contained in the notice and discussed at the hearing.

(c) The local government entity may adopt, amend and adopt, or reject the resolution at a later meeting without recomplying with the published notice requirements of this section.

Amended by Chapter 16, 2023 General Session
Amended by Chapter 435, 2023 General Session

Chapter 17
Utah Industrial Facilities and Development Act

11-17-1 Short title.

This chapter is known as the "Utah Industrial Facilities and Development Act."

Amended by Chapter 206, 1986 General Session

11-17-1.5 Purpose of chapter.

(1)

(a) The purposes of this chapter are to stimulate the economic growth of the state, to promote employment and achieve greater industrial development in the state, to maintain or enlarge domestic or foreign markets for Utah industrial products, to authorize municipalities and counties in the state to facilitate capital formation, finance, acquire, own, lease, or sell projects for the purpose of reducing, abating, or preventing pollution and to protect and promote the health, welfare, and safety of the citizens of the state and to improve local health and the general welfare by inducing corporations, persons, or entities engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities, to locate, relocate, modernize, or expand in this state and to assist in the formation of investment capital with respect thereto.

(b) The Legislature declares that the acquisition or financing, or both, of projects under the Utah Industrial Facilities and Development Act and the issuance of bonds under it constitutes a proper public purpose.

(2)

(a) It is declared that the policy of the state is to encourage the development of free enterprise and entrepreneurship for the purpose of the expansion of employment opportunities and economic development.

(b) It is declared that there exists in the state an inadequate amount of locally managed, pooled venture capital in the private sector available to invest in early stage businesses having high growth potential and that can provide jobs for Utah citizens.
(c) It is found that venture capital is required for healthy economic development of sectors of the economy having high growth and employment potential.
(d) It is further found that the public economic development purposes of the state and its counties and municipalities can be fostered by the sale of industrial revenue bonds for the purpose of providing funding for locally managed, pooled new venture and economic development funds in accordance with the provisions of this chapter.
(e) It is declared that in order to assure adequate investment of private capital for these uses, cooperation between private enterprise and state and local government is necessary and in the public interest and that the facilitation of capital accumulation is the appropriate activity of the counties and municipalities of this state and also of the Governor's Office of Economic Opportunity.
(f) It is found that venture capital funds historically, because of the more intensive nature of their relationship with companies in which they invest, tend to concentrate their investments within a relatively close geographical area to their headquarters location.
(g) It is found and declared that investors in economic development or new venture investment funds require for the overall security of their investments reasonable diversification of investment portfolios and that, in the course of this diversification, investments are often syndicated or jointly made among several financial institutions or funds. It is expressly found and declared that an economic development or new venture investment fund shall from time to time for its optimal profitability and efficiency (which are important for the security and profit of bond purchasers providing funds therefor) cooperate with others who may be located outside of Utah or the county or municipality where the fund is headquartered in the making of investments and that the fund shall be free in the interests of reciprocal relationships with other financial institutions and diversification of risks to invest from time to time in enterprises that are located outside of Utah or the counties or municipalities. It is specifically found that such activity by a locally managed fund, funded in whole or in part with the proceeds of bonds sold under this chapter, is within the public purposes of the state and any county or municipality offering the bonds, provided that the fund locates within Utah or the county or municipality its headquarters where its actual investment decisions and management functions occur and limits the aggregate amount of its investments in companies located outside of Utah to an amount that in the aggregate does not exceed the aggregate amount of investments made by institutions and funds located outside of Utah in Utah companies, that the locally managed fund has sponsored or in which it has invested and that it has brought to the attention of investors outside of Utah.

Amended by Chapter 378, 2010 General Session

11-17-2 Definitions.

As used in this chapter:
(1) "Bonds" means bonds, notes, or other evidences of indebtedness.
(2) "Energy efficiency upgrade" means an improvement that is permanently affixed to real property and that is designed to reduce energy consumption, including:
(a) insulation in:
(i) a wall, ceiling, roof, floor, or foundation; or
(ii) a heating or cooling distribution system;

(b) an insulated window or door, including:
(i) a storm window or door;
(ii) a multiglazed window or door;
(iii) a heat-absorbing window or door;
(iv) a heat-reflective glazed and coated window or door;
(v) additional window or door glazing;
(vi) a window or door with reduced glass area; or
(vii) other window or door modifications that reduce energy loss;
(c) an automatic energy control system;
(d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;
(e) caulking or weatherstripping;
(f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;
(g) an energy recovery system;
(h) a daylighting system;
(i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:
(i) installation of a low-flow toilet or showerhead;
(ii) installation of a timer or timing system for a hot water heater; or
(iii) installation of a rain catchment system; or
(j) any other modified, installed, or remodeled fixture that is approved as a utility cost-savings measure by the governing body.
(3) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or state university for the purpose of using a portion, or all or substantially all of the proceeds to pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the acquisition of facilities of a project, or to create funds for the project itself where appropriate, whether these costs are incurred by the municipality, the county, the state university, the user, or a designee of the user. If title to or in these facilities at all times remains in the user, the bonds of the municipality or county shall be secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured debt obligations of the user or lender, or the sinking fund or other arrangement as in the judgment of the governing body is appropriate for the purpose of assuring repayment of the bond obligations to investors in accordance with their terms.
(4) "Governing body" means:
(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;
(b) for the military installation development authority created in Section 63H-1-201, the board, as defined in Section 63H-1-102;
(c) for a state university except as provided in Subsection (4)(d), the board or body having the control and supervision of the state university; and
(d) for a nonprofit corporation or foundation created by and operating under the auspices of a state university, the board of directors or board of trustees of that corporation or foundation.
(5)
(a) "Industrial park" means land, including all necessary rights, appurtenances, easements, and franchises relating to it, acquired and developed by a municipality, county, or state university for the establishment and location of a series of sites for plants and other buildings for industrial, distribution, and wholesale use.

(b) "Industrial park" includes the development of the land for an industrial park under this chapter or the acquisition and provision of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or any combination of them, but only to the extent that these facilities are incidental to the use of the land as an industrial park.

(6) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other lending institution that lends, loans, or leases proceeds of a financing to the user or a user's designee.

(7) "Mortgage" means a mortgage, trust deed, or other security device.

(8) "Municipality" means any incorporated city, town, or metro township in the state, including cities or towns operating under home rule charters.

(9) "Pollution" means any form of environmental pollution including water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

(10)

(a) "Project" means:

(i) an industrial park, land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, whether or not in existence or under construction:

(A) that is suitable for industrial, manufacturing, warehousing, research, business, and professional office building facilities, commercial, shopping services, food, lodging, low income rental housing, recreational, or any other business purposes;

(B) that is suitable to provide services to the general public;

(C) that is suitable for use by any corporation, person, or entity engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities; or

(D) that is suitable for use by a state university for the purpose of aiding in the accomplishment of its authorized academic, scientific, engineering, technical, and economic development functions;

(ii) any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, used by any individual, partnership, firm, company, corporation, public utility, association, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, for the reduction, abatement, or prevention of pollution, including the removal or treatment of any substance in process material, if that material would cause pollution if used without the removal or treatment;

(iii) an energy efficiency upgrade;

(iv) a renewable energy system;

(v) facilities, machinery, or equipment, the manufacturing and financing of which will maintain or enlarge domestic or foreign markets for Utah industrial products; or

(vi) any economic development or new venture investment fund to be raised other than from:

(A) municipal or county general fund money;

(B) money raised under the taxing power of any county or municipality; or

(C) money raised against the general credit of any county or municipality.

(b) "Project" does not include any property, real, personal, or mixed, for the purpose of the construction, reconstruction, improvement, or maintenance of a public utility as defined in Section 54-2-1.

(11) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from renewable resources, including:

(a) a photovoltaic system;

(b) a solar thermal system;

(c) a wind system;

(d) a geothermal system, including:

(i) a direct-use system; or

(ii) a ground source heat pump system;

(e) a micro-hydro system; or

(f) another renewable energy system approved by the governing body.

(12) "State university" means an institution of higher education as described in Section 53B-2-101 and includes any nonprofit corporation or foundation created by and operating under their authority.

(13) "User" means the person, whether natural or corporate, who will occupy, operate, maintain, and employ the facilities of, or manage and administer a project after the financing, acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

Amended by Chapter 354, 2020 General Session

11-17-3 Powers of municipalities, counties, and state universities.

(1) A municipality, county, and state university may:

(a) finance or acquire, whether by construction, purchase, devise, gift, exchange, or lease, or any one or more of those methods, and construct, reconstruct, improve, maintain, equip, and furnish or fund one or more projects, within this state, and which shall be located within, or partially within, the municipality or county or within the county within which a state university is located, unless an agreement under Title 11, Chapter 13, Interlocal Cooperation Act, has been entered into as authorized by Subsection (5), except that if a governing body finds, by resolution, that the effects of international trade practices have been or will be adverse to Utah manufacturers of industrial products and, therefore, it is desirable to finance a project in order to maintain or enlarge domestic or foreign markets for Utah industrial products, a project may consist of the financing on behalf of a user of the costs of acquiring industrial products manufactured in, and which are to be exported from, the state;

(b) finance for, sell, lease, contract the management of, or otherwise dispose of to, any person, firm, partnership, or corporation, either public or private, including without limitation any person, firm, partnership, or corporation engaged in business for a profit, any or all of its projects upon the terms and conditions as the governing body considers advisable and which do not conflict with this chapter;

(c) issue revenue bonds for the purpose of defraying the cost of financing, acquiring, constructing, reconstructing, improving, maintaining, equipping, furnishing, or funding any project and secure the payment of the bonds as provided in this chapter, which revenue bonds may be issued in one or more series or issues where considered advisable, and each series or issue may contain different maturity dates, interest rates, priorities on securities available for guaranteeing payment of them, and other differing terms and conditions considered necessary and not in conflict with this chapter;

(d)

(i) grant options to renew any lease with respect to any project and to buy any project at a price the governing body considers desirable; and

(ii) sell and convey any real or personal property acquired under Subsection (1)(a) at public or private sale, and make an order respecting the sale considered conducive to the best interests of the municipality, county, or state university, the sale or conveyance to be subject to the terms of any lease but to be free and clear of any other encumbrance;

(e) establish, acquire, develop, maintain, and operate industrial parks; and

(f) offer to the holders of its bonds issued under this chapter the right, where its governing body considers it appropriate, to convert the bonds or some portion of the bond obligation into an equity position in some or all of the assets developed with the proceeds of the bond offering.

(2)

(a) An economic development or new venture investment fund is considered to be located in the municipality or county where its headquarters is located or where any office of it is located, if it is headquartered within the state.

(b) An economic development or new venture investment fund need not make all of its investments within the state or the county or municipality, if it:

(i) locates within the state, the county, or the municipality its headquarters where its actual investment decisions and management functions occur; and

(ii) limits the aggregate amount of its investments in companies located outside the state to an amount which in the aggregate does not exceed the aggregate amount of investments made by institutions and funds located outside the state in companies headquartered in Utah which the locally managed fund has sponsored or in which it has invested and which it has brought to the attention of investors outside the state.

(c)

(i) For purposes of enabling an offering of bonds to fund a fund described in this Subsection (2), a certification of an executive managerial officer of the manager of the fund of the intention to comply with this provision may be relied upon.

(ii) A fund shall at least annually certify to the governmental offeror of the bonds its compliance with this provision.

(3)

(a) Before any municipality, county, or state university issues revenue bonds under this chapter for the purpose of defraying the cost of acquiring, constructing, reconstructing, improving, maintaining, equipping, or furnishing any industrial park project, the governing body of the state university, county, or municipality shall:

(i) adopt and establish a plan of development for the tracts of land to constitute the industrial park; and

(ii) by resolution, find:

(A) that the project for the establishment of the industrial park is well conceived and has a reasonable prospect of success, and that the project will tend to provide proper economic development of the municipality or county and will encourage industry to locate within or near the municipality or county; or

(B) in the case of state universities, will further, through industrial research and development, the instructional progress of the state university.

(b) There may be included as a part of any plan of development for any industrial park:

(i) zoning regulations, including:

(A) restrictions on usage of sites within the boundaries of the industrial park;

(B) minimum size of sites; and

(C) parking and loading regulations; and

(ii) methods for the providing and furnishing of police and fire protection and for the furnishing of other municipal or county services which are considered necessary in order to provide for the maintenance of the public health and safety.

(c) If any water or sewerage facilities are to be acquired as part of the development of the land for an industrial park under this chapter, water and sewerage facilities may be acquired as part of the issue of bonds issued under this chapter, through the issuance of bonds payable from water and sewer charges as provided by law, in combination with an issue of refunding bonds, in combination with an issue of bonds upon the consent of the holders of outstanding bonds issued for the same purpose, in combination with bonds issued for the purposes of financing water and sewer facilities which will not be a part of an industrial park, or in any combination of the foregoing.

(d)

(i) A municipality, county, or state university establishing an industrial park may lease any land acquired and developed as part of an industrial park to one or more lessees.

(ii) The lessee may sublease all or a portion of the land so leased from the municipality or county.

(iii) A municipality, county, or state university may sell or lease land in connection with the establishment, acquisition, development, maintenance, and operation of an industrial park project.

(iv) A lease or sale of land shall be undertaken only after the adoption by the governing body of a resolution authorizing the lease or sale of the land for industrial park purposes.

(4)

(a)

(i) A municipality, county, or state university may not:

(A) operate any project under this section, as a business or in any other manner, except as the lessor or administrator of it; or

(B) acquire any project, or any part of it, by condemnation.

(ii) The provisions of Subsection (4)(a)(i) do not apply to projects involving research conducted, administered, or managed by a state university.

(b) Except for a project described in Subsection 11-17-2(10)(a)(ii) or (vi), a municipality, county, or state university may not, under this chapter, acquire or lease projects, or issue revenue bonds for the purpose of defraying the cost of any project or part of it, used for the generation, transmission, or distribution of electric energy beyond the project site, or the production, transmission, or distribution of natural gas.

(5)

(a) A municipality, county, or state university may enter, either before or after the bonds have been issued, into interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more municipalities, counties, state universities, or special service districts created under Title 17D, Chapter 1, Special Service District Act, in order to accomplish economies of scale or other cost savings and any other additional purposes to be specified in the interlocal agreement, for the issuance of bonds under this chapter on behalf of all of the signatories to the interlocal agreement by one of the municipalities, counties, or state universities which is a signatory to the interlocal agreement for the financing or acquisition of projects qualifying as a project.

(b) For all purposes of Section 11-13-207 the signatory to the interlocal agreement designated as the issuer of the bonds constitutes the administrator of the interlocal agreement.

(6) Notwithstanding the provisions of Subsection (4), the governing body of any state university owning or desiring to own facilities or administer projects may:

(a) become a signatory to the interlocal agreement under Subsection (5);
(b) enter into a separate security agreement with the issuer of the bonds, as provided in Section 11-17-5 for the financing or acquisition of a project to be owned by the state university;
(c) enter into agreements to secure the obligations of the state university under a security agreement entered into under Subsection (6)(b), or to provide liquidity for the obligations including, without limitation, letter of credit agreements with banking institutions for letters of credit or for standby letters of credit, reimbursement agreements with financial institutions, line of credit agreements, standby bond purchase agreements, and to provide for payment of fees, charges, and other amounts coming due under the agreements entered into under the authority contained in this Subsection (6)(c);
(d) provide in security agreements entered into under Subsection (6)(b) and in agreements entered into under Subsection (6)(c) that the obligations of the state university under an agreement shall be special obligations payable solely from the revenues derived from the operation or management of the project, owned by the state university and from net profits from proprietary activities and any other revenues pledged other than appropriations by the Utah Legislature, and the governing body of the state university shall pledge all or any part of the revenues to the payment of its obligations under an agreement; and
(e) in order to secure the prompt payment of the obligations of the state university under a security agreement entered into under Subsection (6)(b) or an agreement entered into under Subsection (6)(c) and the proper application of the revenues pledged to them, covenant and provide appropriate provisions in an agreement to the extent allowed under Section 53B-21-102.

(7) Notwithstanding the provisions of Subsection (4), the governing body of any municipality, county, or special service district owning, desiring to own, or administering projects or facilities may:
(a) become a signatory to the interlocal agreement provided in Subsection (5);
(b) enter into a separate security agreement with the issuer of the bonds, as provided in Section 11-17-5, for the financing or acquisition of a project to be owned by the municipality, county, or special service district, except that no municipality, county, or special service district may mortgage the facilities financed or acquired;
(c) enter into agreements to secure the obligations of the municipality, county, or special service district, as the case may be, under a security agreement entered into under Subsection (7)(b), or to provide liquidity for the obligations including, without limitation, letter of credit agreements with banking institutions for letters of credit or for standby letters of credit, reimbursement agreements with financial institutions, line of credit agreements, standby bond purchase agreements, and to provide for payment of fees, charges, and other amounts coming due under the agreements entered into under the authority contained in this Subsection (7)(c);
(d) provide in security agreements entered into under Subsection (7)(b) and in agreements entered into under Subsection (7)(c) that the obligations of the municipality, county, or special service district, as the case may be, under an agreement shall be special obligations payable solely from the revenues derived from the operation or management of the project, owned by the municipality, county, or special service district and the governing body of the municipality, county, or special service district shall pledge all or any part of the revenues to the payment of its obligations under an agreement; and
(e) in order to secure the prompt payment of obligations under a security agreement entered into under Subsection (7)(b) or an agreement entered into under Subsection (7)(c) and the proper application of the revenues pledged to them, covenant and provide appropriate provisions

in an agreement to the extent permitted and provided for with respect to revenue obligations under Section 11-14-306.

(8) In connection with the issuance of bonds under this chapter, a municipality, county, or state university may:

(a) provide for the repurchase of bonds tendered by their owners and may enter into an agreement to provide liquidity for the repurchases, including a letter of credit agreement, line of credit agreement, standby bond purchase agreement, or other type of liquidity agreement;

(b) enter into remarketing, indexing, tender agent, or other agreements incident to the financing of the project or the performance of the issuer's obligations relative to the bonds; and

(c) provide for payment of fees, charges, and other amounts coming due under the agreements entered into under Subsection (6).

Amended by Chapter 345, 2013 General Session

11-17-3.5 Powers of Military Installation Development Authority.

The military installation development authority, created in Section 63H-1-201, is subject to and governed by the provisions of this chapter to the same extent as if the military installation development authority were a municipality.

Enacted by Chapter 92, 2009 General Session

11-17-4 Bonds -- Limitations -- Form and provisions -- Sale -- Negotiability.

(1) All bonds issued by a municipality or county under this chapter shall be limited obligations of the municipality or county. Bonds and interest coupons issued under this chapter may not constitute nor give rise to a general obligation or liability of the municipality or county or a charge against its general credit or taxing powers. Such limitation shall be plainly stated upon the face of such bonds.

(2) The bonds referred to in Subsection (1) may be authorized by resolution of the governing body, and may:

(a) be executed and delivered at any time and from time to time;

(b) be in such form and denominations;

(c) be of such tenor;

(d) be in registered or bearer form either as to principal or interest or both;

(e) be payable in such installments and at such time or times as the governing body may deem advisable;

(f) be payable at such place or places either within or without the state of Utah;

(g) bear interest at such rate or rates, payable at such place or places, and evidenced in such manner;

(h) be redeemable prior to maturity, with or without premium;

(i) be convertible into equity positions in any asset or assets acquired or developed with the proceeds of the sale of the bonds; and

(j) contain such other provisions not inconsistent with this chapter as shall be deemed for the best interests of the municipality or county and provided for in the proceedings of the governing body under which the bonds shall be authorized to be issued.

(3) Any bonds issued under this chapter may be sold at public or private sale in such manner and at such time or times as may be determined by the governing body to be most advantageous. The municipality or county may pay all expenses, premiums, and commissions which the governing body may deem necessary or advantageous in connection with the authorization,

sale, and issuance of such bonds from the proceeds of the sale of such bonds or from the revenues of the project or projects.

(4) All bonds issued under this chapter and all interest coupons applicable thereto shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

Amended by Chapter 378, 2010 General Session

11-17-4.6 Bonds -- Terms specified by governing body.

The proceedings of the governing body under which the bonds are authorized to be issued may:

(1) if the bonds bear interest at a variable rate or rates, specify the methods, formulas, or indices by which the interest rate or rates on the bonds may be determined;

(2) specify the terms and conditions under which the bonds may be issued, sold, and delivered, the officer of the issuing municipality, county, or state university responsible for the issuance, execution, and delivery of the bonds, the maximum amount of bonds which may be outstanding at any one time, the source of payment of the bonds, which may include the proceeds of refunding bonds issued under this chapter, and all other details necessary or appropriate for the issuance of bonds not inconsistent with this chapter; and

(3) delegate, by resolution, to one or more officers of the issuing municipality, county, or state university the authority to:

(a) in accordance with and within the parameters set forth in the resolution, approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and

(b) approve and execute all documents relating to the issuance of the bonds.

Amended by Chapter 145, 2011 General Session

11-17-5 Security for bonds -- Provisions in security agreements -- Limitations -- Liens.

(1) The principal of and interest on any bonds issued under this chapter:

(a) shall be secured by a pledge and assignment of the revenues out of which the bonds are made payable or by such other sinking fund or security provision as shall in the judgment of the governing body be reasonably designed to assure payment of the obligations to the purchasers thereof; however, the bond purchasers may not in any event have recourse against the general funds or general credit of the governmental offeror;

(b) may be secured by a mortgage covering all or any part of the project; and

(c) may be secured by any other security device deemed most advantageous by the governing body issuing the bonds.

(2) The proceedings under which the bonds are authorized to be issued under this chapter and any mortgage given to secure them may contain any agreements and provisions customarily contained in instruments securing bonds, including, without limiting the generality of the foregoing, provisions respecting:

(a) the fixing and collection of revenues for any project covered by the proceedings or mortgage;

(b) the terms to be incorporated in the lease, installment purchase agreement, rental agreement, mortgage, trust indenture, loan agreement, financing agreement, or other agreement for the project;

(c) the maintenance and insurance of the project;

(d) the creation and maintenance of special funds from the revenues of projects; and

(e) the rights and remedies available in the event of a default to the bondholders or to the trustee under a mortgage, all as the governing body deems advisable and which is not in conflict with this chapter, except that in making any agreements or provisions a municipality or county may not obligate itself except with respect to the project and the application of the revenues from it and may not incur a general obligation or liability or a charge upon its general credit or against its taxing powers.

(3) The proceedings authorizing any bonds under this chapter and any mortgage securing bonds may provide that, in the event of a default in the payment of the principal of or the interest on the bonds or in the performance of any agreement contained in the proceedings or mortgage, payment and performance may be enforced by the appointment of a receiver with power to charge and collect the revenues from the project and to apply the revenues from the project in accordance with the proceedings or the provisions of the mortgage.

(4) Any mortgage made under this chapter to secure bonds issued under it may also provide that, in the event of a default in payment or the violation of any agreement contained in the mortgage, the mortgage may be foreclosed or otherwise realized on in any manner permitted by law. The mortgage may also provide that any trustee under the mortgage or the holder of any of the bonds secured by the mortgage may become the purchaser at any foreclosure sale if the highest bidder. No breach of any agreement imposes any general obligation or liability upon a municipality or county or any charge upon their general credit or against their taxing powers.

(5) The revenues pledged and received are immediately subject to the lien of the pledge without any physical delivery of any lease, purchase agreement, financing agreement, loan agreement, note, debenture, bond, or other obligation under which the revenues are payable, or any other act, except that the proceedings or agreement by which the pledge is created shall be recorded in the records of the municipality, county, or state university. The proceedings or agreement by which the pledge is created, or a financing statement, need not be filed or recorded under the Uniform Commercial Code, or otherwise, except in the records of the municipality, county, or state university as provided in this Subsection (5). The lien of any pledge is valid and binding and has priority as against all parties having claims of any kind in tort, contract, or otherwise against the municipality, county, or state university, irrespective of whether the parties have notice of the lien. Each pledge and agreement made for the benefit or security of any of the revenue bonds issued under this chapter shall continue effective until the principal, interest, and premium, if any, on the revenue bonds have been fully paid or provision for payment has been made.

Amended by Chapter 378, 2010 General Session

11-17-6 Refunding bonds.

Any bonds issued under this act and at any time outstanding may at any time and from time to time be refunded either in advance or by exchange by a municipality or county by the issuance of its refunding bonds in such amount as the governing body may deem necessary. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds from same to the payment of the bonds to be refunded by such refunding bonds or by exchange of the refunding bonds for the bonds to be refunded by such refunding bonds. Any refunding bonds issued under this act shall be subject to the provisions contained in Section 11-17-4 and may be secured in accordance with the provisions of Section 11-17-5.

Enacted by Chapter 29, 1967 General Session

11-17-7 Disposition of proceeds of bonds.

The proceeds from the sale of any bonds issued under this act shall be applied only for the purposes for which the bonds were issued; but any accrued interest and premium received upon any such sale shall be applied to the payment of the principal of or the interest on the bonds sold, and if for any reason any portion of such proceeds are not needed for the purposes for which the bonds were issued, then such unneeded portion of such proceeds shall be applied to the payment of the principal of or the interest on such bonds or in accordance with such other plan or device for the furtherance of the project and the protection of the bondholder as the governing body shall deem appropriate under the circumstances.

Amended by Chapter 378, 2010 General Session

11-17-8 Items included in cost of project.

The cost of acquiring or improving any project includes the following:

(1) the actual cost of acquiring or improving real estate;

(2) the actual cost of enlarging, constructing, reconstructing, improving, maintaining, equipping, or furnishing all or any part of a project which may be constructed, including architects' or engineers' fees;

(3) all expenses in connection with the authorization, sale, and issuance of the bonds to finance such acquisition or improvement, enlargement, construction, reconstruction, improvement, maintenance, equipping, or furnishing, including legal fees, financial advisers fees, letter of credit fees, line of credit or other liquidity agreement fees, bank acceptance fees, fees of tender agents, remarketing agents and indexing agents, premiums for bond insurance or insurance of the obligations of users under security agreements, printing costs, underwriters' discount, reserves to pay principal and interest on the bonds, and the interest on bonds for a reasonable time prior to construction, during construction, and for a reasonable period of time after completion of construction; and

(4) amounts to pay or discharge, or provide for the payment and discharge of, any existing indebtedness incurred to finance or refinance hospital, nursing home, or extended care facility property owned by a user for which a project is to be undertaken under this chapter.

Amended by Chapter 128, 1985 General Session

11-17-9 Commingling of bond proceeds or revenues with other funds prohibited.

No part of the proceeds received from the sale of any bonds issued under this act, of any revenues derived from any project acquired or held under this act, or of any interest realized on money received under this act shall be commingled by the county or municipality with other funds of such county or municipality.

Enacted by Chapter 29, 1967 General Session

11-17-10 Tax exemption for property and bonds -- Exception.

All property acquired or held by the county or municipality under this chapter is declared to be public property used for essential public and governmental purposes; and all such property and bonds issued under this chapter and the income from them are exempt from all taxes imposed by the state, any county, any municipality, or any other political subdivision of the state, except for the

corporate franchise tax. This exemption does not extend to the interests of any private person, firm, association, partnership, corporation, or other private business entity in such property or in any other property such business entity may place upon or use in connection with any project, all of which shall be subject to the provisions of Section 59-4-101 and all other applicable laws nor to any income of such private business entity, which, except as provided in this section for such bonds and the income from them, shall be subject to all applicable laws, regarding the taxing of such income.

Amended by Chapter 378, 2010 General Session

11-17-11 Construction of act.

Neither this act nor anything contained in it shall be construed as a restriction or limitation upon any powers which a county or municipality might otherwise have under any laws of this state.

Enacted by Chapter 29, 1967 General Session

11-17-12 Bonds -- Eligibility as investments and for use as security.

Bonds issued under this act are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, credit unions, building and loan associations, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries, pension, profit-sharing and retirement funds may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law.

Enacted by Chapter 29, 1967 General Session

11-17-13 Pledge and undertaking for the state.

The state of Utah does hereby pledge to and agree with the holders of any bonds issued under this act and with those parties who may enter into contracts with any county or municipality under this act, that the state will not alter, impair or limit the rights thereby vested until the bonds, together with applicable interest, are fully met and discharged and such contracts are fully performed. Nothing contained in this act shall preclude such alteration, impairment or limitation if and when adequate provision shall be made by law for the protection of the holders of the bonds or persons entering into contracts with any county or municipality. Each county and municipality is authorized to include this pledge and undertaking for the state in such bonds or contracts.

Enacted by Chapter 29, 1967 General Session

11-17-14 Uniform Commercial Code not applicable.

Bonds issued under this act are exempt from the provisions of Title 70A, Uniform Commercial Code.

Amended by Chapter 189, 2014 General Session

11-17-15 Public bidding laws and rules not applicable.

The provisions of the various laws of the state of Utah and the rules or ordinances of the county or municipality which would otherwise require public bidding in respect to the acquisition, financing, management, funding, construction, reconstruction, improvement, maintenance, equipping, and furnishing of a project shall have no application to same.

Amended by Chapter 206, 1986 General Session

11-17-16 Publication of resolutions and notice of bonds to be issued.

(1)

(a) The governing body may provide for the publication of any resolution or other proceeding adopted by it under this chapter, including all resolutions providing for the sale or lease of any land by the municipality, county, or state university in connection with the establishment, acquisition, development, maintenance, and operation of an industrial park.

(b) The publication shall be given:

(i) as a class A notice under Section 63G-30-102, for at least seven days:

(A) for the municipality or county; or

(B) in the case of a state university, for the county within which the principal administrative office of the state university is located; and

(ii) as required in Section 45-1-101.

(2) In case of a resolution or other proceeding providing for the issuance of bonds, the governing body may, in lieu of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued, titled as such, containing:

(a) the name of the issuer;

(b) the purpose of the issue;

(c) the name of the users, if known;

(d) the maximum principal amount which may be issued;

(e) the maximum number of years over which the bonds may mature; and

(f) the times and place where a copy of the resolution or other proceeding may be examined, which shall be at an office of the issuer, identified in the notice, during regular business hours of the issuer as described in the notice and for a period of at least 30 days after the publication of the notice.

(3) For a period of 30 days after publication any person in interest may contest the legality of the resolution, proceeding, any bonds which may be authorized under them, or any provisions made for the security and payment of the bonds. After expiration of the 30-day period no person may contest the regularity, formality, or legality of the resolution, proceedings, bonds, or security provisions for any cause.

Amended by Chapter 435, 2023 General Session

11-17-16.1 Agreements authorized by resolution.

(1) The governing body of any municipality, county, special service district, or state university entering into an agreement pursuant to Section 11-17-3 may provide for the publication of any resolution adopted by it authorizing the execution of the agreement, in a newspaper qualified to carry notices having general circulation therein.

(2) Any agreement authorized to be executed by the resolution may be attached as an exhibit to the resolution and need not be published as part of the resolution if the resolution provides that a copy of the agreement may be examined at an office of the municipality, county, special

service district, or state university during regular business hours as described in the resolution and for a period of at least 30 days after the publication of the resolution.

(3) For a period of 30 days after publication of the resolution, any person in interest may contest the legality of the resolution, any agreement authorized thereby, or any provisions made for the security and payment of the obligations of the municipality, county, special service district, or state university under the agreement. After the expiration of the 30-day period no person has any cause of action to contest the regularity, formality, or legality of the resolution or any agreement authorized thereby for any cause.

Amended by Chapter 92, 1987 General Session

11-17-17 State universities granted same powers as municipalities and counties -- Authority to issue bonds.

(1) The Utah Board of Higher Education may, on behalf of the University of Utah and Utah State University exercise all powers granted to municipalities and counties pursuant to this chapter, except as provided in Subsection (2).

(2) The Utah Board of Higher Education may not issue bonds in excess of $10,000,000 in any one fiscal year under this chapter on behalf of either institution as the borrower without prior approval from the Legislature.

(3) Refunding bonds are exempt from the requirements of Subsection (2) if:

(a) the bonds are issued to reduce debt service costs; and

(b) the refunding bonds mature during the same time frame as the original obligation.

Amended by Chapter 365, 2020 General Session

11-17-18 Powers of Governor's Office of Economic Opportunity.

For purposes of this chapter and for the purposes of the Utah Interlocal Cooperation Act, the Governor's Office of Economic Opportunity has all the powers set out in this chapter of, and is subject to the same limitations as, a municipality as though the office were defined as a municipality for purposes of this chapter, but it shall have such powers with respect to economic development or new venture investment fund projects only. It is not authorized to exercise such powers in any manner which will create general obligations of the state or any agency, department, division, or political subdivision thereof.

Amended by Chapter 282, 2021 General Session

11-17-20 Power of the Utah Charter School Finance Authority.

(1) The Utah Charter School Finance Authority may exercise the powers granted to municipalities and counties by this chapter, subject to the same limitations as that imposed on a municipality or county under the chapter, except as provided by Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program.

(2) As used in this chapter, "governing body" when applied to the Utah Charter School Finance Authority means the authority's governing board as described in Section 53G-5-602.

(3) Notwithstanding Section 11-17-15, a charter school that receives financing under this chapter is subject to Title 63G, Chapter 6a, Utah Procurement Code.

Amended by Chapter 415, 2018 General Session

Chapter 21
Cycle Registration

11-21-1 Cities and counties to require licensing of cycles by dealers -- "Cycle" defined.

(1) All county, city and town governments shall by ordinance or otherwise require all cycle dealers operating within their jurisdiction:
  (a) to license, or arrange to have licensed at the time of purchase all cycles sold by them;
  (b) to keep records on all cycles sold and to furnish, within 30 days of sale, their respective city or county police departments with the following information:
    (i) name and address of the retailer;
    (ii) year and make of the cycle;
    (iii) general description of the cycle;
    (iv) frame number; and
    (v) name and address of the purchaser;
  (c) to not sell any cycle which does not have a serial number on its frame. Where the cycle has no serial or frame numbers the dealer shall be required to stamp or have stamped on the frame the number of the license to be issued for that cycle, the year in which the license was issued or year of expiration of license and the abbreviation for the city or county regulating the dealer.
(2) As used in this section, "cycle" means a device upon which any person may ride, propelled by human power through a belt, chain or gears and having one or more wheels in tandem or other arrangement. Cycles with wheels of at least 20 inches in diameter and frame size of at least 14 inches shall be subject to this section. Others may be licensed by owner upon request.

Amended by Chapter 10, 1997 General Session

Chapter 25
Utah Residential Rehabilitation Act

11-25-1 Short title.

This act shall be known and may be cited as the "Utah Residential Rehabilitation Act."

Enacted by Chapter 276, 1977 General Session

11-25-2 Legislative findings -- Liberal construction.

The Legislature finds and declares that it is necessary for the welfare of the state and its inhabitants that community reinvestment agencies be authorized within cities, towns or counties, or cities or towns and counties to make long-term, low-interest loans to finance residential rehabilitation in selected residential areas in order to encourage the upgrading of property in those areas. Unless such agencies provide some form of assistance to finance residential rehabilitation, many residential areas will deteriorate at an accelerated pace. This act shall be liberally construed to effect its purposes.

Amended by Chapter 350, 2016 General Session

11-25-3 Definitions.

As used in this chapter:

(1) "Agency" means a community reinvestment agency functioning pursuant to Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

(2) "Bonds" mean any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to this part and which are payable exclusively from the revenues, as defined in Subsection (10), and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.

(3)

(a) "Citizen participation" means action by the agency to provide persons who will be affected by residential rehabilitation financed under the provisions of this part with opportunities to be involved in planning and carrying out the residential rehabilitation program. "Citizen participation" shall include, but not be limited to, all of the following:

(i) Holding a public meeting prior to considering selection of the area for designation.

(ii) Consultation with representatives of owners of property in, and residents of, a residential rehabilitation area, in developing plans for public improvements and implementation of the residential rehabilitation program.

(iii) Dissemination of information relating to the time and location of meetings, boundaries of the proposed residential rehabilitation area, and a general description of the proposed residential rehabilitation program.

(b)

(i) Public meetings and consultations described in Subsection (3)(a) shall be conducted by an official designated by the agency.

(ii) Public meetings shall be held at times and places convenient to residents and property owners.

(4) "Financing" means the lending of money or any other thing of value for the purpose of residential rehabilitation.

(5) "Participating party" means any person, company, corporation, partnership, firm, agency, political subdivision of the state, or other entity or group of entities requiring financing for residential rehabilitation pursuant to the provisions of this part. No elective officer of the state or any of its political subdivisions shall be eligible to be a participating party under the provision of this part.

(6) "Rehabilitation standards" mean the applicable local or state standards for the rehabilitation of buildings located in residential rehabilitation areas, including any higher standards adopted by the agency as part of its residential rehabilitation financing program.

(7) "Residence" means a residential structure in residential rehabilitation areas. It also means a commercial structure which, in the judgment of the agency, is an integral part of a residential neighborhood.

(8) "Residential rehabilitation" means the construction, reconstruction, renovation, replacement, extension, repair, betterment, equipping, developing, embellishing, or otherwise improving residences consistent with standards of strength, effectiveness, fire resistance, durability, and safety, so that the structures are satisfactory and safe to occupy for residential purposes and are not conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime because of any one or more of the following factors:

(a) defective design and character of physical construction;

(b) faulty interior arrangement and exterior spacing;

(c) high density of population and overcrowding;

(d) inadequate provision for ventilation, light, sanitation, open spaces, and recreation facilities;

(e) age, obsolescence, deterioration, dilapidation, mixed character, or shifting of uses; and
(f) economic dislocation, deterioration, or disuse, resulting from faulty planning.

(9) "Residential rehabilitation area" means the geographical area designated by the agency as one for inclusion in a comprehensive residential rehabilitation financing program pursuant to the provisions of this chapter.

(10) "Revenues" mean all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the agency from the financing of residential rehabilitation, including money deposited in a sinking, redemption, or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of, or interest on, the bonds and such other money as the legislative body may, in its discretion, make available therefor.

Amended by Chapter 350, 2016 General Session

11-25-4 Location and character of rehabilitation -- Financial assistance.

An agency may determine the location and character of any residential rehabilitation to be financed under the provisions of this part and may lend financial assistance to any participating part for the purpose of financing residential rehabilitation in areas designated as residential rehabilitation areas by the agency.

Enacted by Chapter 276, 1977 General Session

11-25-5 Bonds or notes -- Issuance -- Purposes -- Payment -- Maturity of bond anticipation notes.

An agency may, from time to time, issue its negotiable bonds or notes for the purpose of financing residential rehabilitation as authorized by this act and for the purpose of funding or refunding these bonds or notes in the same manner as it may issue other bonds or notes as provided in Title 17C, Chapter 1, Part 5, Agency Bonds. Every issue of its bonds shall be a special obligation of the agency payable from all or any part of the revenues specified in the act or funds legally received by the agency. In anticipation of the sale of the bonds, the agency may issue negotiable bond anticipation notes in accordance with Section 11-14-311, and may renew such notes from time to time. Bond anticipation notes may be paid from the proceeds of sale of the bonds of the agency in anticipation of which they were issued. Bond anticipation notes and agreements relating thereto and the resolution or resolutions authorizing the notes and agreements may obtain any provisions, conditions, or limitations which a bond, agreement relating thereto, or bond resolution of the agency may contain except that any note or renewal thereof shall mature at a time not later than five years from the date of the issuance of the original note.

Amended by Chapter 359, 2006 General Session

11-25-6 Fees, charges and interest rates -- Contract for collections -- Security -- Payment -- Assignments.

The agency may fix fees, charges, and interest rates for financing residential rehabilitation and may from time to time revise these fees, charges, and interest rates to reflect changes in interest rates on the agency's bonds, losses due to defaults, changes in loan servicing charges, or other expenses related to administration of the residential rehabilitation financing program. The agency may collect interest and principal together with the fees and charges incurred in financing and may contract to pay any person, partnership, association, corporation, or public agency with respect

thereto. The agency may hold deeds of trust as security for financing residential rehabilitation and may pledge the same as security for repayment of bonds issued pursuant to this part. The agency may establish the terms and conditions for the financing of residential rehabilitation undertaken pursuant to this act.

The full amount owed on any loan for residential rehabilitation made pursuant to this part shall be due and payable upon sale or other transfer of ownership of the property subject to such rehabilitation, except that assignment of the loan to the buyer or transferee may be permitted in case of hardship, which shall be defined, and procedures established for the determination of their existence in guidelines established by the agency.

Enacted by Chapter 276, 1977 General Session

11-25-7 Expenditures for services and advisers.

The agency may employ engineering, architectural, accounting, collection, or other services, including services in connection with the servicing of loans made to participating parties, as may be necessary in the judgment of the agency for the successful financing of such residential rehabilitation. The agency may pay the reasonable costs of consulting engineers, architects, accountants, and construction experts, if, in the judgment of the agency, such services are necessary to the successful financing of any residential rehabilitation and if the agency is not able to provide such services. The agency may employ and fix the compensation of financing consultants, bond counsel, and other advisers as may be necessary in its judgment to provide for the issuance and sale of any bonds or bond anticipation notes of the agency.

Enacted by Chapter 276, 1977 General Session

11-25-8 General powers of agency.

In addition to all other powers specifically granted by this part, the agency may do all things necessary or convenient to carry out the purposes of this act.

Enacted by Chapter 276, 1977 General Session

11-25-9 Bonds payable solely from revenues -- Cities, towns, and counties not obligated.

Revenues shall be the sole source of funds pledged by the agency for repayment of its bonds. Bonds issued under the provisions of this part may not be deemed to constitute a debt or liability of the agency or a pledge of the faith and credit of the agency but shall be payable solely from revenues. The issuance of bonds may not directly, indirectly, or contingently obligate a city, town or county, or a city or town and county which has designated its governing body as an agency to levy or pledge any form of taxation or to make any appropriation for payment of bonds issued by an agency.

Amended by Chapter 378, 2010 General Session

11-25-10 Rules and regulations -- Acquisition and disposal of interests in property.

All residential rehabilitation shall be constructed or completed subject to the rules and regulations of the agency. An agency may acquire by deed, purchase, lease, contract, gift, devise, or otherwise any real or personal property, structures, rights, rights-of-way, franchises, easements, and other interests in lands necessary or convenient for the financing of residential rehabilitation, upon such terms and conditions as it deems advisable, and may lease, sell, or dispose of the same

in such manner as may be necessary or desirable to carry out the objectives and purposes of this act.

Enacted by Chapter 276, 1977 General Session

11-25-11 Comprehensive financing program ordinance -- Contents.

Prior to the issuance of any bonds or bond anticipation notes of the agency for residential rehabilitation, the agency shall by ordinance adopt a comprehensive residential rehabilitation financing program, including:

(1) Criteria for selection of residential rehabilitation areas by the agency including findings by the agency that:

(a) There are a substantial number of deteriorating structures in the area which do not conform to community standards for decent, safe, sanitary housing.

(b) Financial assistance from the agency for residential rehabilitation is necessary to arrest the deterioration of the area.

(c) Financing of residential rehabilitation in the area is economically feasible. These findings are not required, however, when the residential rehabilitation area is located within the boundaries of a project area covered by an urban renewal project area plan adopted in accordance with Section 17C-2-107.

(2) Procedures for selection of residential rehabilitation areas by the agency including:

(a) Provisions for citizen participation in selection of residential rehabilitation areas.

(b) Provisions for a public hearing by the agency prior to selection of any particular residential rehabilitation area.

(3) A commitment that rehabilitation standards will be enforced on each residence for which financing is provided.

(4) Guidelines for financing residential rehabilitation which shall be subject to the following limitations:

(a) Outstanding loans on the property to be rehabilitated including the amount of the loans for rehabilitation, may not exceed 80% of the anticipated after-rehabilitation value of the property to be rehabilitated, except that the agency may authorize loans of up to 95% of the anticipated after-rehabilitation value of the property if loans are made for the purpose of rehabilitating the property for residential purposes, there is demonstrated need for such higher limit, and there is a high probability that the value of the property will not be impaired during the term of the loan.

(b) The maximum repayment period for residential rehabilitation loans shall be 20 years or 3/4 of the economic life of the property, whichever is less.

(c) The maximum amount loan for rehabilitation for each dwelling unit and for each commercial unit which is, or is part of a "residence" as defined in this chapter, shall be established by resolution of the agency.

Amended by Chapter 378, 2010 General Session

11-25-12 Equal opportunity requirements.

The agency shall require that any residence which is rehabilitated with financing obtained under this part shall, until that financing is repaid, be open, upon sale or rental of any portion thereof, to all regardless of race, creed, color, sex, marital status, or national origin. The agency shall also require that contractors and subcontractors engaged in residential rehabilitation financed under this part shall provide equal opportunity for employment, without discrimination as to race, color, creed,

sex, marital status, or national origin. All contracts and subcontracts for residential rehabilitation financed under this part shall be let without discrimination as to race, color, creed, sex, marital status, or national origin.

Enacted by Chapter 276, 1977 General Session

11-25-13 Challenge of program, plan, or area -- Limitation.

Any action challenging the legality of a comprehensive residential rehabilitation financing program, the selection of a residential rehabilitation area, or the adoption of a plan for public improvements for a residential rehabilitation area shall be commenced within 30 days of the publication of the resolution, ordinance, or other proceedings adopting the program or plan, or selecting the area. After this time no one shall have any cause of action to contest the regularity, formality or legality thereof for any cause whatsoever.

Enacted by Chapter 276, 1977 General Session

11-25-14 Trust to secure bonds -- Contents of agreement or bond resolution -- Indemnity bonds or securities -- Expenses of trust.

In the discretion of the agency, any bonds issued under the provisions of this part may be secured by a trust agreement by and between the agency and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without this state. The trust agreement or the resolution providing for the issuance of bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged, and may convey or mortgage any residence the rehabilitation of which is to be financed out of the proceeds of the bonds. Such trust agreement or resolution providing for the issuance of bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including such provisions as may be included in any resolution or resolutions of the agency authorizing the issuance of bonds. Any bank or trust company doing business under the laws of this state which may act as depositary of the proceeds of bonds or of revenues or other money may furnish such indemnity bonds or pledge such securities as may be required by the agency. Any trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual rights of action by bondholders. In addition to the foregoing, any trust agreement or resolution may contain such other provisions as the agency may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be created as a part of the cost of residential rehabilitation.

Enacted by Chapter 276, 1977 General Session

11-25-15 Proceedings for enforcement of rights of bondholders and trustees.

Any holder of bonds issued under the provisions of this part or any of the coupons appertaining thereto, and the trustee or trustees appointed pursuant to any resolution authorizing the issuance of the bonds, except to the extent the rights thereof may be restricted by the resolution authorizing the issuance of the bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect or enforce any and all rights specified in the laws of the state or in the resolution, and may enforce and compel the performance of all duties required by this part or by such resolution to be performed by the agency or by any officer, employee, or agent thereof,

including the fixing, charging, and collecting of rates, fees, interest and charges authorized and required by the provisions of the resolution to be fixed, established, and collected.

Enacted by Chapter 276, 1977 General Session

11-25-16 Refunding bonds -- Issuance -- Proceeds -- Investments.

(1) The agency may provide for the issuance of the bonds of the agency to:
  (a) refund any outstanding bonds of the agency;
  (b) pay any redemption premiums and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of those bonds; and
  (c) pay all or any part of the cost of additional residential rehabilitation.

(2) The agency may:
  (a) apply the proceeds of bonds issued for the purpose of refunding any outstanding bonds to the purchase or retirement at maturity or redemption of any outstanding bonds, either at their earliest or any subsequent redemption date or upon the purchase or retirement at their maturity; and
  (b) pending that application, place them in escrow, to be applied to the purchase or retirement at maturity or redemption on the date determined by the agency.

(3)
  (a) Pending use for purchase, retirement at maturity, or redemption of outstanding bonds, any proceeds held in escrow under Subsection (2) shall be invested by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.
  (b) The agency shall apply any interest or other increment earned or realized on an investment to the payment of the outstanding bonds to be refunded.
  (c) After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and any interest or increment earned or realized from the investment of them may be returned to the agency to be used by it for any lawful purpose.

(4) The agency shall invest that portion of the proceeds of any bonds designated for the purpose of paying all or any part of the cost of additional residential rehabilitation under Subsection (1) by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.

(5) All bonds issued under this section are subject to the provisions of this part in the same manner and to the same extent as other bonds issued under this chapter.

Amended by Chapter 285, 1992 General Session

11-25-17 Residential rehabilitation bonds as investments or deposits.

Notwithstanding any other provisions of law, bonds issued pursuant to this part shall be legal investments for all trust funds, the funds of insurance companies, savings and loan associations, investment companies and banks, both savings and commercial, and shall be legal investments for executors, administrators, trustees, and all other fiduciaries. The bonds shall be legal investments for state school funds and for any fund which may be invested in county, municipal, or school district bonds, and the bonds shall be deemed to be securities which may properly and legally be deposited with, and received by, any state or municipal officer or by any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

Enacted by Chapter 276, 1977 General Session

11-25-18 Financing provided to participating parties -- Agreements -- Contents.

The agency may provide financing to any participating party for the purpose of residential rehabilitation authorized pursuant to a comprehensive residential rehabilitation financing program. All agreements for this financing shall provide that the design of the residential rehabilitation shall be subject to such standards as may be established by the agency and that the work of such residential rehabilitation shall be subject to such supervision as the agency deems necessary.

Enacted by Chapter 276, 1977 General Session

11-25-19 Loan agreements with participating parties -- Contents -- Rates, fees, and charges -- Purposes.

The agency may enter into loan agreements with any participating party relating to residential rehabilitation of any kind or character. The terms and conditions of the loan agreements may be as mutually agreed upon. Any loan agreement may provide the means or methods by which any mortgage taken by the agency shall be discharged, and it shall contain such other terms and conditions as the agency may require. The agency is authorized to fix, revise, charge, and collect interest and principal and all other rates, fees, and charges with respect to financing of residential rehabilitation. These rates, fees, charges, and interest shall be fixed and adjusted so that the aggregate of the rates, fees, charges, and interest will provide funds sufficient with other revenues and money which it is anticipated will be available therefor, if any, to do all of the following:

(1) Pay the principal of and interest on outstanding bonds of the agency issued to finance such residential rehabilitation as the same shall become due and payable.

(2) Create and maintain reserves required or provided for in any resolution authorizing such bonds. A sufficient amount of the revenues derived from residential rehabilitation may be set aside at such regular intervals as may be provided by the resolution in a sinking or other similar fund, which is hereby pledged to, and charged with, the payment of the principal of and interest on the bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. The pledge shall be valid and binding from the time the pledge is made. The rates, fees, interest, and other charges, revenues, or money so pledged and thereafter received by the local agency shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the agency, irrespective of whether the parties have notice thereof. Neither the resolution nor any loan agreement by which a pledge is created need be filed or recorded except in the records of the agency. The use and disposition of money to the credit of the sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds. Except as may otherwise be provided in the resolution, the sinking or other similar fund may be a fund for all bonds of the agency issued to finance the rehabilitation of the residence of a particular participating party without distinction or priority. The agency, however, in any resolution may provide that the sinking or other similar fund shall be the fund for a particular residential rehabilitation project or projects and for the bonds issued to finance such residential rehabilitation project or projects and may, additionally, authorize and provide for the issuance of bonds having a lien with respect to the security authorized by this section which is subordinate to the lien of other bonds of the agency, and, in this case, the agency may create separate sinking or other similar funds securing the bonds having the subordinate lien.

(3) Pay operating and administrative costs of the agency incurred in the administration of the program authorized by this part.

Enacted by Chapter 276, 1977 General Session

11-25-20 Money received as trust funds -- Depository as trustee.

All money received pursuant to the provisions of this part, whether proceeds from the sale of bonds or revenues, shall be deemed to be trust funds to be held and applied solely as provided in this part. Any bank or trust company in which the money is deposited shall act as trustee of the money and shall hold and apply the same for the purposes specified in this part, subject to the terms of the resolution authorizing the bonds.

Amended by Chapter 342, 2011 General Session

11-25-21 Act deemed supplemental to other laws -- Compliance in issuing bonds sufficient.

This act shall be deemed to provide a complete, additional, and alternative method for doing the things authorized thereby, and shall be regarded as supplemental and additional to the powers conferred upon an agency by other laws. The issuance of bonds and refunding bonds under the provisions of this part need not comply with the requirements of any other law applicable to the issuance of bonds.

Enacted by Chapter 276, 1977 General Session

Chapter 26
Limitations on Local Taxes and Fees

Part 1
General Provisions

11-26-101 Title.

This chapter is known as "Limitations on Local Taxes and Fees on Utilities."

Enacted by Chapter 283, 2018 General Session

Part 2
Local Charges on a Public Service Provider

11-26-201 Definitions -- Ceiling on local charges based on gross revenue of public service provider.

(1) As used in this part:

(a) "Local charge" means one or more of the following charges paid by a public service provider to a county or municipality:

(i) a tax;

(ii) a license;

(iii) a fee;

(iv) a license fee;
(v) a license tax; or
(vi) a charge similar to Subsections (1)(a)(i) through (v).
(b) "Municipality" means:
(i) a city; or
(ii) a town.
(c) "Public service provider" means a person engaged in the business of supplying taxable energy as defined in Section 10-1-303.
(2) A county or a municipality may not impose upon, charge, or collect from a public service provider local charges:
(a) imposed on the basis of the gross revenue of the public service provider;
(b) derived from sales, use, or both sales and use of the service within the county or municipality; and
(c) in a total amount that is greater than 6% of gross revenue.
(3) The determination of gross revenue under this section may not include:
(a) the sale of gas or electricity as special fuel for motor vehicles; or
(b) a local charge.
(4) This section may not be construed to:
(a) affect or limit the power of a county or a municipality to impose sales and use taxes under:
(i)Title 59, Chapter 12, Sales and Use Tax Act; or
(ii)Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or
(b) grant any county or municipality the power to impose a local charge not otherwise provided for by law.
(5) This section takes precedence over any conflicting provision of law.

Renumbered and Amended by Chapter 283, 2018 General Session

11-26-202 Exemption of municipality from taxation limitation.

A municipality is exempt from this limit by a majority vote of the municipality's voters who vote in a municipal election.

Renumbered and Amended by Chapter 283, 2018 General Session

Part 3
Transportation Utility Fee

11-26-301 Definitions -- Prohibition on imposition of transportation utility fee.

(1) As used in this section:
(a)
(i) "Legal subdivision" means a local government that is recognized by Utah Constitution, Article XI.
(ii) "Legal subdivision" does not include a local government that Utah Constitution, Article XI, only authorizes the Legislature to create.
(b) "Municipality" means the same as that term is defined in Section 10-1-104.
(c) "Transportation utility fee" means an ongoing, regular fee imposed:
(i) by a municipality for the purpose of maintaining public roads; and

(ii) on utility customers within the municipality.
(2) A municipality may not impose a transportation utility fee on a legal subdivision.
(3) This section does not grant to a municipality any authority not otherwise provided for by law to impose a transportation utility fee.

Amended by Chapter 391, 2020 General Session

Part 4
Car Sharing Taxes, Fees, and Charges

11-26-401 Definitions -- Prohibition on car sharing program taxes, fees, and other charges.

(1) As used in this part:
(a) "Car sharing" means the same as that term is defined in Section 13-48a-101.
(b) "County" means the same as that term is defined in Section 17-50-101.
(c) "Municipality" means a city or a town.
(d) "Political subdivision" means the same as that term is defined in Section 11-14-102.
(e) "Rental" means the same as the terms "lease" or "rental" are defined in Section 59-12-102.
(2) A county, municipality, or other political subdivision may not impose a tax, fee, or charge on the gross proceeds or gross income of a car sharing transaction that the jurisdiction does not impose on other transactions involving the rental of a motor vehicle without a driver.

Enacted by Chapter 361, 2023 General Session

Chapter 27
Utah Refunding Bond Act

11-27-1 Short title -- Recital of authority required on face of bonds.

This chapter shall be known and may be cited as the "Utah Refunding Bond Act." All bonds issued under the authority provided for in this chapter shall contain on their face a recital to that effect.

Enacted by Chapter 43, 1981 General Session

11-27-2 Definitions.

As used in this chapter:
(1) "Advance refunding bonds" means refunding bonds issued for the purpose of refunding outstanding bonds in advance of their maturity.
(2) "Assessments" means a special tax levied against property within a special improvement district to pay all or a portion of the costs of making improvements in the district.
(3) "Bond" means any revenue bond, general obligation bond, tax increment bond, special improvement bond, local building authority bond, or refunding bond.
(4) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body payable in whole or in part from revenues derived from ad valorem

taxes and that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.

(5) "Governing body" means the council, commission, county legislative body, board of directors, board of trustees, board of education, board of higher education, or other legislative body of a public body designated in this chapter that is vested with the legislative powers of the public body, and, with respect to the state, the State Bonding Commission created by Section 63B-1-201.

(6) "Government obligations" means:

(a) direct obligations of the United States of America, or other securities, the principal of and interest on which are unconditionally guaranteed by the United States of America; or

(b) obligations of any state, territory, or possession of the United States, or of any of the political subdivisions of any state, territory, or possession of the United States, or of the District of Columbia described in Section 103(a), Internal Revenue Code of 1986.

(7) "Issuer" means the public body issuing any bond or bonds.

(8) "Public body" means the state or any agency, authority, instrumentality, or institution of the state, or any municipal or quasi-municipal corporation, political subdivision, agency, school district, special district, special service district, or other governmental entity now or hereafter existing under the laws of the state.

(9) "Refunding bonds" means bonds issued under the authority of this chapter for the purpose of refunding outstanding bonds.

(10) "Resolution" means a resolution of the governing body of a public body taking formal action under this chapter.

(11) "Revenue bond" means any bond, note, warrant, certificate of indebtedness, or other obligation for the payment of money issued by a public body or any predecessor of any public body and that is payable from designated revenues not derived from ad valorem taxes or from a special fund composed of revenues not derived from ad valorem taxes, but excluding all of the following:

(a) any obligation constituting an indebtedness within the meaning of any applicable constitutional or statutory debt limitation;

(b) any obligation issued in anticipation of the collection of taxes, where the entire issue matures not later than one year from the date of the issue; and

(c) any special improvement bond.

(12) "Special improvement bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body or any predecessor of any public body that is payable from assessments levied on benefitted property and from any special improvement guaranty fund.

(13) "Special improvement guaranty fund" means any special improvement guaranty fund established under Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities; Title 11, Chapter 42, Assessment Area Act; or any predecessor or similar statute.

(14) "Tax increment bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body issued under authority of Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

Amended by Chapter 16, 2023 General Session

11-27-3 Action by resolution of governing body -- Purposes for bond issue -- Exchange or sale -- Interest rate limitations inapplicable -- Principal amount -- Investment of proceeds -- Safekeeping and application of proceeds -- Computing indebtedness -- Payment of bonds

-- Combination issues -- Laws applicable to issuance -- Payment from taxes or pledged revenues.

(1) Any formal action taken by the governing body of a public body under the authority of this chapter may be taken by resolution of that governing body.

(2)

(a) The governing body of any public body may by resolution provide for the issuance of refunding bonds to refund outstanding bonds issued by the public body or its predecessor, either prior to or after the effective date of this chapter, only:

(i) to pay or discharge all or any part of any outstanding series or issue of bonds, including applicable interest, in arrears or about to become due and for which sufficient funds are not available;

(ii) to achieve a savings; or

(iii) to achieve another objective that the governing body finds to be beneficial to the public body.

(b) Any refunding bonds may be delivered in exchange for the outstanding bonds being refunded or may be sold in a manner, at terms, with details, and at a price above, at, or below par as the governing body determines advisable. The refunding bonds may be issued without an election, unless an election is required by the Utah Constitution.

(c) The governing body may, by resolution, delegate to one or more officers of the local political subdivision the authority to:

(i) in accordance with and within the parameters set forth in the resolution, approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and

(ii) approve and execute all documents relating to the issuance of a bond.

(d) It is the express intention of the Legislature that interest rate limitations elsewhere appearing in the laws of the state not apply to nor limit the rates of interest borne by refunding bonds.

(3) Advance refunding bonds may be issued in a principal amount in excess of the principal amount of the bonds to be refunded as determined by the governing body. This amount may be equal to the full amount required to pay the principal of, interest on, and redemption premiums, if any, due in connection with the bonds to be refunded to and including their dates of maturity or redemption in accordance with the advance refunding plan adopted by the governing body, together with all costs incurred in accomplishing this refunding. The principal amount of refunding bonds may be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for the retirement or redemption of the bonds to be refunded. Any reserves held or taxes levied or collected to secure the bonds to be refunded may be applied to the redemption or retirement of the bonds, or otherwise, as the governing body may determine.

(4) Prior to the application of the proceeds derived from the sale of advance refunding bonds to the purposes for which the bonds have been issued, these proceeds, together with any other legally available funds, including reserve funds, may be invested and reinvested only in government obligations maturing at such times as may be required to provide funds sufficient to pay principal of, interest on, and redemption premiums, if any, due in connection with the bonds to be refunded or the advance refunding bonds, or both, in accordance with the advance refunding plan. To the extent incidental expenses have been capitalized, these bond proceeds may be used to defray these expenses.

(5) The governing body may contract regarding the safekeeping and application of the proceeds of sale of advance refunding bonds and other funds included with them and the income from them, including the right to appoint a trustee, which may be any trust company or state or

national bank having powers of a trust company inside or outside the state. The governing body may provide in the advance refunding plan that until such money is required to redeem or retire the bonds to be refunded, the advance refunding bond proceeds and other funds, and the income from them, shall be used to pay and secure payment of principal of, interest on, and redemption premiums, if any, due in connection with all or a portion of the advance refunding bonds or the bonds being refunded, or both.

(6) In computing indebtedness for the purpose of any applicable constitutional or statutory debt limitation, there shall be deducted from the amount of outstanding indebtedness the principal amount of outstanding general obligation bonds for the payment of which there has been dedicated and deposited in escrow government obligations, the principal of or interest on which, or both, will be sufficient to provide for the payment of these general obligation bonds as to principal, interest, and redemption premiums, if any, when due at maturity or upon some earlier date upon which the bonds have been called for redemption in accordance with their terms.

(7) When a public body has irrevocably set aside for and pledged to the payment of bonds to be refunded proceeds of advance refunding bonds and other money in amounts which, together with known earned income from their investment, will be sufficient in amount to pay the principal of, interest on, and any redemption premiums due on the bonds to be refunded as the same become due and to accomplish the refunding as scheduled, the refunded bonds shall be considered duly paid and discharged for the purpose of any applicable constitutional or statutory debt limitation.

(8) Refunding bonds and bonds issued for any other purpose may be issued separately or issued in combination in one or more series or issues by the same issuer.

(9) Except as specifically provided in this section, refunding bonds issued under this chapter shall be issued in accordance with the provisions of law applicable to the type of bonds of the issuer being refunded in effect either at the time of the issuance of the refunding bonds or at the time of issuance of the bonds to be refunded. Refunding bonds and coupons, if any, pertaining to them may bear facsimile signatures as provided in Section 11-14-304.

(10) Refunding bonds may be made payable from any taxes or pledged revenues, or both, or any assessments, special improvement guaranty funds, or other funds which might be legally pledged for the payment of the bonds to be refunded at the time of the issuance of the refunding bonds or at the time of the issuance of the bonds to be refunded, as the governing body may determine.

Amended by Chapter 145, 2011 General Session
Amended by Chapter 342, 2011 General Session

11-27-3.5 Tax levy to pay state refunding bonds -- Sinking fund -- Payments -- Abatement of tax -- Investment of fund -- Interest rates on bonds -- Security for bonds.

(1)

(a) Each year after issuance of refunding bonds by the State Bonding Commission until all outstanding refunding bonds are retired, there is levied a direct annual tax on all real and personal property within the state subject to state taxation, sufficient to pay:

(i) applicable refunding bond redemption premiums, if any;

(ii) interest on the refunding bonds as it becomes due; and

(iii) principal on the refunding bonds as it becomes due.

(b) The rate of the direct annual tax shall be fixed each year by the State Tax Commission at the rate fixed for state taxes and the tax shall be collected and the proceeds applied as provided in this chapter.

(c) The proceeds of the taxes levied under this section may be appropriated to the applicable sinking fund.

(2) A sinking fund may be created by resolution of the State Bonding Commission for administration by the state treasurer. The resolution may provide that all money deposited in the sinking fund, from whatever source, shall be used to pay debt service on the refunding bonds.

(3) The Division of Finance, on or before any interest, principal, or redemption premiums become due on the refunding bonds, shall draw warrants on the state treasury which the treasurer shall promptly pay from funds within the applicable sinking fund. The amount paid shall be transmitted immediately to the paying or transfer agent for the refunding bonds.

(4) The direct annual tax imposed under this section is abated to the extent money is available from sources, other than ad valorem taxes in the applicable sinking fund, for the payment of refunding bond interest, principal, and redemption premiums.

(5) The state treasurer may invest any money in sinking funds in accordance with Title 51, Chapter 7, State Money Management Act of 1974, until the time it is needed for the purposes for which each fund is created. All income from the investment of sinking fund money shall be deposited to that sinking fund and used for the payment of debt service on the refunding bonds.

(6) The proceedings of the State Bonding Commission may specify the rates of interest on the refunding bonds or the method, formula, or indexes by which a variable interest rate on the bonds may be determined while the bonds are outstanding.

(7) In connection with any refunding bond issued by the State Bonding Commission the state treasurer may enter into arrangements on behalf of the state with financial, and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure the refunding bonds and for the payment of fees, charges, and other amounts coming due under those agreements for the purpose of enhancing the credit worthiness of the refunding bonds.

Enacted by Chapter 6, 1984 General Session

11-27-4 Publication of resolution -- Notice of bond issue -- Contest of resolution or proceeding.

(1) The governing body of any public body may provide for the publication of any resolution or other proceeding adopted by it under this chapter:

(a) for the public body, as a class A notice under Section 63G-30-102, for at least seven days; and

(b) as required in Section 45-1-101.

(2) In case of a resolution or other proceeding providing for the issuance of refunding bonds (or for a combined issue of refunding bonds and bonds issued for any other purpose), the governing body may, instead of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued, entitled accordingly, and containing:

(a) the name of the issuer;

(b) the purposes of the issue;

(c) the maximum principal amount which may be issued;

(d) the maximum number of years over which the bonds may mature;

(e) the maximum interest rate which the bonds may bear;

(f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold;

(g) a general description of the security pledged for repayment of the bonds; and

(h) the times and place where a copy of the resolution or other proceeding authorizing the issuance of the bonds may be examined, which shall be at an office of the governing body identified in the notice, during regular business hours of the governing body as described in the notice and for a period of at least 30 days after the publication of the notice.

(3) For a period of 30 days after the publication, any person in interest shall have the right to contest the legality of the resolution or proceeding or any bonds which may be so authorized or any provisions made for the security and payment of these bonds; and after this time no person shall have any cause of action to contest the regularity, formality, or legality thereof for any cause.

Amended by Chapter 435, 2023 General Session

11-27-5 Negotiability of bonds -- Intent and construction of chapter -- Budget for payment of bonds -- Proceedings limited to those required by chapter -- Notice -- No election required -- Application of chapter.

(1) Refunding bonds shall have all the qualities of negotiable paper, shall be incontestable in the hands of bona fide purchasers or holders for value, and are not invalid for any irregularity or defect in the proceedings for their issuance and sale. This chapter is intended to afford an alternative method for the issuance of refunding bonds by public bodies and may not be construed to deprive any public body of the right to issue bonds for refunding purposes under authority of any other statute, but this chapter, nevertheless, shall constitute full authority for the issue and sale of refunding bonds by public bodies. Section 11-1-1, however, is not applicable to refunding bonds.

(2) Any public body subject to any budget law shall in its annual budget make proper provision for the payment of principal and interest currently falling due on refunding bonds, but no provision need be made in the budget prior to the issuance of the refunding bonds for their issuance or for the expenditure of the proceeds from them.

(3)

(a) No ordinance, resolution, or proceeding concerning the issuance of refunding bonds nor the publication of any resolution, proceeding, or notice relating to the issuance of the refunding bonds shall be necessary except as specifically required by this chapter.

(b) A publication made under this chapter may be made:

(i) for the public body, as a class A notice under Section 63G-30-102; and

(ii) as required in Section 45-1-101.

(4) No resolution adopted or proceeding taken under this chapter shall be subject to any referendum petition or to an election other than as required by this chapter. All proceedings adopted under this chapter may be adopted on a single reading at any legally-convened meeting of the governing body. This chapter shall apply to all bonds issued and outstanding at the time this chapter takes effect as well as to bonds issued after this chapter takes effect.

Amended by Chapter 435, 2023 General Session

11-27-6 Bonds and interest exempt from taxation except corporate franchise tax.

All refunding bonds, and interest accruing on them, shall be exempt from all taxation in this state, except for the corporate franchise tax.

Amended by Chapter 61, 1984 General Session

11-27-7 Chapter inapplicable to anticipation bonds and obligations.

This chapter does not apply to bonds or obligations issued in anticipation of the collection of taxes where the entire issue matures not later than one year from the date of the issue.

Amended by Chapter 142, 1987 General Session

11-27-8 Chapter controlling in conflict of laws.

To the extent that provisions of this chapter shall be in conflict with any other law or laws, the provisions of this chapter shall be controlling.

Enacted by Chapter 43, 1981 General Session

11-27-9 Prerequisites to issuance of state general obligation refunding bonds.

No general obligation refunding bonds of the state may be issued under this chapter, unless:

(1) the tax provided in Section 11-27-3.5 is sufficient to pay annual interest and to pay the principal of the refunding bonds within 20 years from the final passage of the law authorizing the bonds to be refunded thereby; or

(2) the legislature has approved the issuance of general obligation refunding bonds and provided for levying a tax annually, sufficient to pay the annual interest and to pay the principal of the general obligation refunding bonds within 20 years from the final passage of the law approving the refunding bonds as provided in Article XIII, Sec. 2(11), Utah Constitution.

Amended by Chapter 258, 2015 General Session

11-27-10 Legal investment status of refunding bonds.

Refunding bonds issued under this chapter are legal investments for all state trust funds, insurance companies, banks, trust companies, and the state school fund, and may be used as collateral to secure legal obligations.

Enacted by Chapter 6, 1984 General Session

Chapter 30
Utah Bond Validation Act

11-30-1 Short title.

This chapter is known as the "Utah Bond Validation Act."

Enacted by Chapter 197, 1987 General Session

11-30-2 Definitions.

As used in this chapter:

(1) "Attorney general" means the attorney general of the state or one of his assistants.

(2) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial paper, contracts, and leases, whether they are general obligations of the issuing

public body or are payable solely from a specified source, including annual appropriations by the public body.
(3) "County attorney" means the county attorney of a county or one of his assistants.
(4) "Lease" means any lease agreement, lease purchase agreement, and installment purchase agreement, and any certificate of interest or participation in any of the foregoing. Reference in this chapter to issuance of bonds includes execution and delivery of leases.
(5) "Person" means any person, association, corporation, or other entity.
(6) "Public body" means the state or any agency, authority, instrumentality, or institution of the state, or any county, municipality, quasi-municipal corporation, school district, special district, special service district, political subdivision, or other governmental entity existing under the laws of the state, whether or not possessed of any taxing power. With respect to leases, public body, as used in this chapter, refers to the public body which is the lessee, or is otherwise the obligor with respect to payment under any such leases.
(7) "Refunding bonds" means any bonds that are issued to refund outstanding bonds, including both refunding bonds and advance refunding bonds.
(8) "State" means the state of Utah.
(9) "Validity" means any matter relating to the legality and validity of the bonds and the security therefor, including, without limitation, the legality and validity of:
  (a) a public body's authority to issue and deliver the bonds;
  (b) any ordinance, resolution, or statute granting the public body authority to issue and deliver the bonds;
  (c) all proceedings, elections, if any, and any other actions taken or to be taken in connection with the issuance, sale, or delivery of the bonds;
  (d) the purpose, location, or manner of the expenditure of funds;
  (e) the organization or boundaries of the public body;
  (f) any assessments, taxes, rates, rentals, fees, charges, or tolls levied or that may be levied in connection with the bonds;
  (g) any lien, proceeding, or other remedy for the collection of those assessments, taxes, rates, rentals, fees, charges, or tolls;
  (h) any contract or lease executed or to be executed in connection with the bonds;
  (i) the pledge of any taxes, revenues, receipts, rentals, or property, or encumbrance thereon or security interest therein to secure the bonds; and
  (j) any covenants or provisions contained in or to be contained in the bonds. If any deed, will, statute, resolution, ordinance, lease, indenture, contract, franchise, or other instrument may have an effect on any of the aforementioned, validity also means a declaration of the validity and legality thereof and of rights, status, or other legal relations arising therefrom.

Amended by Chapter 16, 2023 General Session

11-30-3 Petition to establish validity of bonds -- Contents -- Court action.

(1) A public body may, at any time after it has authorized the issuance of bonds for other than a project financing involving more than one series of bonds to finance such project or at any time after it has authorized the issuance of the first series of bonds to finance a project in more than one series, but before the issuance and delivery of any such bonds or such first series of bonds, as the case may be, file a petition to establish the validity of such bonds.
(2) The petition shall be filed in the district court of the county in which the public body maintains its principal office, and shall name as defendants all taxpayers, property owners, citizens of the public body, including nonresidents owning property or subject to taxation therein, all other

persons having or claiming any right, title, or interest in any property or funds affected by or to be affected by the bonds, all parties to any contract or instrument which is part of the validation proceedings, and, pursuant to Section 11-30-6, either the attorney general or the county attorney of the county in which the largest expenditure of proceeds of the bonds is expected to be made.

(3) The petition shall set forth and affirm, by proper allegation of law and fact:
 (a) the statutory authority by which the petition is filed;
 (b) the statutory authority by which the public body authorized the issuance of the bonds;
 (c) the ordinance, resolution, or other proceedings by which the public body authorized the issuance and delivery of the bonds;
 (d) the holding of an election and the results of that election, if an election was required;
 (e) the purpose of the bonds; and
 (f) the source of funds from which the bonds are to be paid.

(4) The petitioner may set forth any additional information with respect to such bonds and any questions of law or fact concerning the validity of the bonds that the petitioner desires the court to adjudicate separately in rendering its judgment, as well as those allegations of law or fact necessary to its consideration.

(5) The petitioner shall then petition the court to render judgment affirming the validity of the bonds and to pass upon any questions for separate adjudication set forth in the petition. Any petitioner may amend or supplement the petition at any time on or before the hearing, but not thereafter without permission of the court.

(6) No amendment or supplement may require republication of the order unless there has been a change in the issuer or there has been a substantial change in the use of the proceeds or the manner of repayment of the bonds.

Enacted by Chapter 197, 1987 General Session

11-30-4 Hearing on petition.

Upon the filing of the petition, the court shall issue an order in the form of a notice against all defendants requiring them to appear at a time and place to be designated in the order, and to show cause why the prayers of the petition should not be granted. The time of the hearing shall be not less than 20 nor more than 30 days from the date of the issuing of the order. The place of the hearing shall be within the county in which the petition is filed. The order shall set forth a general description of the petition but need not set forth the entire petition or any attached exhibits.

Enacted by Chapter 197, 1987 General Session

11-30-5 Publication of order for hearing.

(1) Prior to the date set for hearing, the clerk of the court shall publish the order for the public body's jurisdiction, as a class A notice under Section 63G-30-102, for three weeks.

(2) If a refunding bond is being validated, all holders of the bonds to be refunded may be made defendants to the action, in which case notice may be made, and if so made shall be considered sufficient, by mailing a copy of the order to each holder's last-known address.

(3) By publication of the order, all defendants shall have been duly served and shall be parties to the proceedings.

Amended by Chapter 435, 2023 General Session

11-30-6 Contest of petition by attorney general or county attorney -- Attorney general and county attorney as parties.

(1) A copy of the petition and order shall be served on the attorney general at least 20 days before the hearing. Upon receipt of the petition, the attorney general shall carefully examine the petition and, if the petition is believed to be defective, insufficient, or untrue, or if, in the attorney general's opinion, a reasonable question exists as to the validity of the bonds, the attorney general shall contest the petition. If neither of those conditions exists or if one or more other parties to the action will, in the attorney general's opinion, competently contest the petition, the attorney general may, upon approval of the court, be dismissed as a defendant.

(2) If the petition is filed by the state or any agency, authority, instrumentality, or institution of the state, the attorney general may not be made a party to the proceeding and notice shall be served on the county attorney in the county in which the largest expenditure of the proceeds of the bonds is expected to be made. That county attorney shall then in all respects perform the role of the attorney general as set forth in this section.

(3) The attorney general or county attorney, as the case may be, may waive his right of appeal and that waiver shall be binding on all successors and assigns.

(4) All costs of the attorney general or county attorney incurred in performing duties imposed by this section shall be reimbursed from the proceeds of the bonds if the bonds are issued.

Enacted by Chapter 197, 1987 General Session

11-30-7 Pleadings -- Questions of law and fact -- Judgment.

(1) A defendant may file, amend, or supplement any pleading to the proceeding at any time on or before the hearing, but not after the hearing begins, unless permission is given by the court.

(2) At the time and place designated in the order, the court shall:

- (a) proceed to hear and determine all questions of law and fact; and
- (b) enter orders that will best enable the court properly to try and determine all questions of law and fact and to enter a judgment with the least possible delay.

(3) The judgment shall be based upon a written opinion of the court that:

- (a) makes findings of fact; and
- (b) separately states the court's conclusions of law.

(4) To the extent possible and practicable under the circumstances, the court shall render final judgment within 10 days after the day on which the hearing is concluded.

Amended by Chapter 134, 2012 General Session

11-30-8 Injunction -- Other orders.

(1) Upon motion of the public body to the court in which the validation proceeding is pending, whether before or after the date set for hearing, the court may:

- (a) enjoin the commencement, prosecution, or maintenance of any other action involving the validity of the bonds;
- (b) order all other actions or proceedings consolidated with the validation proceeding pending before the court; and
- (c) make orders that are necessary or proper to effect consolidation or to avoid unnecessary costs or delays.

(2) The orders described in Subsection (1) are not appealable.

Amended by Chapter 134, 2012 General Session

11-30-9 Failure of validity based on substantial defects or material errors and omissions.

No court may fail to declare bonds valid under this chapter unless the court finds substantial defects or material errors and omissions in the issuance of the bonds. Matters of form shall be disregarded.

Enacted by Chapter 197, 1987 General Session

11-30-10 Appeals to Supreme Court.

(1) An appeal may be taken only to the Supreme Court and may be taken only by a party appearing at the hearing.
(2) No appeal is allowed unless the notice of appeal is filed within 10 days after the date of entry of the judgment.
(3) The Supreme Court shall expedite and give priority to the docketing, briefing, hearing, and decision on appeal.

Amended by Chapter 134, 2012 General Session

11-30-11 Final judgment -- Permanent injunction.

(1)If the judgment upholds the validity of the bonds, and no appeal is taken, or if an appeal is taken from any judgment and at any time thereafter a judgment is rendered holding the bonds to be valid, the judgment shall, notwithstanding any other provision of law, including, without limitation, Rules 55(c) and 60(b) of the Utah Rules of Civil Procedure, be binding and conclusive as to the validity of the bonds against the public body issuing the bonds and all other parties to the petition, and shall constitute a permanent injunction against the institution by any person of any action or proceeding contesting the validity of the bonds or any other matter adjudicated or that might have been adjudicated in the proceedings.
(2) After a final judgment has been entered holding the bonds to be valid, as to any action or proceeding contesting the validity of the bonds or any other matter adjudicated or that might have been adjudicated in the proceedings:
  (a) no court has jurisdiction to adjudicate such matters; and
  (b) all rights of taxpayers, citizens, and others to litigate such matters shall lapse.

Enacted by Chapter 197, 1987 General Session

11-30-12 No challenge based on procedural error.

No bond validated under this chapter may be challenged because the validation proceeding was not in compliance with this chapter unless the deficiency renders the proceeding in any way unconstitutional.

Enacted by Chapter 197, 1987 General Session

11-30-13 Chapter controlling in conflict of laws.

To the extent that provisions of this chapter are in conflict with any other law, the provisions of this chapter are controlling.

Enacted by Chapter 197, 1987 General Session

Chapter 31
Utah Public Finance Act

11-31-1 Short title.

This chapter is known as the "Utah Public Finance Act."

Enacted by Chapter 199, 1987 General Session

11-31-2 Definitions.

As used in this chapter:

(1) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial paper, contracts, and leases, whether they are general obligations of the issuing public body or are payable solely from a specified source, including annual appropriations by the public body.

(2) "Legislative body" means, with respect to any action to be taken by a public body with respect to bonds, the board, commission, council, agency, or other similar body authorized by law to take legislative action on behalf of the public body, and in the case of the state, the Legislature, the state treasurer, the commission created under Section 63B-1-201, and any other entities the Legislature designates.

(3) "Public body" means the state and any public department, public agency, or other public entity existing under the laws of the state, including, without limitation, any agency, authority, instrumentality, or institution of the state, and any county, city, town, municipal corporation, quasi-municipal corporation, state university or college, school district, special service district, special district, separate legal or administrative entity created under the Interlocal Cooperation Act or other joint agreement entity, community reinvestment agency, and any other political subdivision, public authority, public agency, or public trust existing under the laws of the state.

Amended by Chapter 16, 2023 General Session

11-31-3 Issuance of bonds -- Registration for offer and sale.

(1) Any bonds authorized by law to be issued may be issued without regard to the treatment of interest on those bonds for purposes of federal income taxation.

(2)

(a) Any public body authorized to issue bonds may take any actions and enter into any agreements necessary or appropriate to register or qualify the bonds described in this section for offer and sale under the federal or any state's or nation's securities laws and to comply with those laws.

(b) Those actions and agreements on behalf of the state may be taken and entered into by the commission created under Section 63B-1-201 or by the state treasurer, as appropriate.

Amended by Chapter 12, 2001 General Session

Chapter 32

Utah Interlocal Financing Authority Act

11-32-1 Short title.

(1) This chapter shall be known as the "Utah Interlocal Financing Authority Act."

(2) All bonds issued pursuant to authority of this chapter shall contain on their face a recital to that effect.

Enacted by Chapter 143, 1987 General Session

11-32-2 Definitions.

As used in this chapter:

(1) "Assignment agreement" means the agreement, security agreement, indenture, or other documentation by which the county transfers the delinquent tax receivables to the authority in consideration of the amounts paid by the authority under the assignment agreement, as provided in this chapter.

(2) "Bonds" means any bonds, notes, or other evidence of indebtedness of the financing authority issued under this chapter.

(3) "Delinquent tax receivables" means those ad valorem tangible property taxes levied within any county, for any year, which remain unpaid and owing the participant members within the county, as of January 15 of the following year, plus any interest and penalties accruing or assessed to them.

(4) "Financing authority" or "authority" means a nonprofit corporation organized under this chapter by a county on behalf of the participant members within the county as the financing authority for the participant members solely for the purpose of financing the assignment of the delinquent tax receivables of the participant members for which it was created.

(5) "Governing body" means the council, commission, county legislative body, board of education, board of trustees, or any other governing entity of a public body in which the legislative powers of the public body are vested.

(6) "Participant members" means those public bodies, including the county, the governing bodies of which approve the creation of an authority as provided in Section 11-32-3 and on whose behalf the authority acts.

(7) "Public body" means any city, town, county, school district, special service district, special district, community reinvestment agency, or any other entity entitled to receive ad valorem property taxes, existing under the laws of the state.

Amended by Chapter 16, 2023 General Session

11-32-3 Creation of county interlocal finance authority as nonprofit corporation -- Organization -- Acquisition of delinquent tax receivables -- Personnel -- Duties of elected attorney and treasurer.

(1) The governing body of any county within the state may, by resolution, organize a nonprofit corporation as the financing authority for the county on behalf of public bodies within the county under this chapter, following the procedures set out in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, solely for the purpose of accomplishing the public purposes for which the public bodies exist by financing the sale or assignment of the delinquent tax receivables within the county to the financing authority. The authority shall be known as the "Interlocal Finance Authority of (name of county)."

(2) If the governing body of any county creates an authority on behalf of any other public body within the county, the resolution shall further state the name or names of the other public bodies. A certified copy of the resolution creating the authority shall be delivered to the governing body of the other public bodies. The governing bodies of each of the other public bodies shall either approve or reject the creation of the authority, but if no action has been taken within 30 days of delivery of the certified copy of the resolution to the governing body it shall be considered rejected.

(3) Following the approval, rejection, or considered rejection of the resolution by the governing bodies of each of the public bodies listed in the initial resolution, the county shall then amend the resolution to delete the public bodies rejecting the resolution and shall list the participant members of the authority.

(4) The governing bodies of the participant members shall approve the articles of incorporation and bylaws of the authority. Members of governing bodies of each of the participant members, or a paid employee of the governing body designated by the member, shall be selected to form and shall act as the board of trustees of the authority. The powers of the board of trustees may be vested in an executive committee to be selected from among the board of trustees by the members of the board of trustees. The articles of incorporation and bylaws shall provide that the members of the board of trustees of the authority may be removed and replaced by the governing body from which such member was selected at any time in its discretion. A majority of the governing bodies of the participant members, based upon a percentage of the property taxes levied for the year preceding the then current year, within the county may, alter or change the structure, organization, programs, or activities of the financing authority, subject to the rights of the holders of the authority's bonds and parties to its other obligations.

(5) Each financing authority may acquire by assignment the delinquent tax receivables of the participant members creating the financing authority, in accordance with the procedures and subject to the limitations of this chapter, in order to accomplish the public purposes for which the participant members exist.

(6) Except as limited by Subsection (7), a financing authority may contract for or employ all staff and other personnel necessary for the purpose of performing its functions and activities, including contracting with the participant members within the county that created it to utilize any of the personnel, property, or facilities of any of the participant members for that purpose. The authority may be reimbursed for such costs by the participant member as provided in its articles of incorporation or bylaws.

(7)

(a) With respect to any county that creates a financing authority and which has an elected attorney or treasurer, or both, the elected attorney shall be the legal advisor to and provide all legal services for the authority, and the elected treasurer shall provide all accounting services for the authority. The authority shall reimburse the county for legal and accounting services so furnished by the county, based upon the actual cost of the services, including reasonable amounts allocated by the county for overhead, employee fringe benefits, and general and administrative expenses.

(b) The provisions of Subsection (7) may not prevent the financing authority from obtaining the accounting or auditing services from outside accountants or auditors with the consent of the elected treasurer and the governing bodies or from obtaining legal services from outside attorneys with the consent of the elected attorney and the governing bodies. The provisions of this subsection may not prevent the authority from obtaining the opinions of outside attorneys or accountants which are necessary for the issuance of the bonds of the authority.

(c) If 50% or more of the governing bodies of the participant members, based upon property taxes charged for the preceding year as a percentage of all of the property taxes charged within the county for that year, find it advisable that the authority retain legal or accounting services other than as described in Subsection (7)(a) they may direct the board of trustees to do so.

Amended by Chapter 300, 2000 General Session

11-32-3.5 Entry into an established interlocal finance authority -- Withdrawal from an interlocal finance authority -- Effect of outstanding debt -- Effect on organization.

(1) The governing body of any public body, which is not at that time a member of a financing authority established in the county in which the public body is located, may, by resolution, elect to join the authority.
(2) The resolution shall state the name of the public body and that the public body thereby petitions for membership in the authority. A certified copy of the resolution shall be delivered to the authority.
(3) The public body shall become a participant member of the authority, upon receipt by the authority of the resolution, but only with respect to any financing initiated after the public body has become a member of the authority.
(4) A participant member may elect to withdraw from an authority by resolution adopted by the governing body of the participant member following:
  (a) the payment of all outstanding bonds for which a participant member's delinquent tax receivables have been assigned;
  (b) the distribution of remaining amounts as provided in Section 11-32-15; and
  (c) satisfactory completion of any independent accounting audits requested by the authority or the county.
(5) The resolution of the governing body of the public body which is withdrawing its membership shall state the name of the public body it represents and that the public body thereby petitions for withdrawal from the authority. A certified copy of the resolution shall be delivered to the authority. The membership of the public body in the authority shall terminate upon receipt of the resolution by the authority.
(6) A public body which has withdrawn from membership in an authority may elect to join such authority to participate in future financings by the authority.
(7)
  (a) By resolution of its governing body, a participant member may elect not to participate in future financings of the authority. Such election shall be effective upon delivery of a certified copy of the resolution to the authority.
  (b) In addition to the method outlined in Subsection (7)(a), a participant member may be considered to have elected not to participate in future financings in any reasonable manner selected by the authority.
(8) For purposes of determining the presence of a quorum of the board of trustees or for other purposes, the board of trustees of an authority may treat participant members which have elected or are considered to have elected not to participate in a financing as not being participant members.
(9) The composition organization of the authority shall change upon the entrance, election to participate, election not to participate, or withdrawal of a participant member.

Amended by Chapter 324, 2010 General Session

11-32-4 Assignment of rights to receive delinquent tax receivables to financing authority -- Documentation -- Agreement.

(1) At any time following the date of delinquency for property in Title 59, Chapter 2, Part 13, Collection of Taxes, the governing body of any county desiring to implement the provisions of this chapter by assigning the delinquent tax receivables of the participant members to its authority shall ascertain the amount of delinquent taxes owed to the participant members within the county. After ascertaining the amount of delinquent tax receivables owed, the governing body of the county may, as agent for the other participant members, assign the rights of the participant members to receive the delinquent tax receivables, in whole or in part, as designated by the governing body of the county, to the financing authority. The assignment of rights described above shall take the form of an assignment of an account receivables. The purchase price paid by the authority may be equal to, greater than, or less than the amount of the delinquent tax receivables sold to the authority. The documentation by which the transfer of the delinquent tax receivables are made shall contain the following:

(a) the tax year or years for which the delinquent taxes owing were levied;

(b) the amount of taxes, interest, and penalties due to the participant members with respect to the tax years as of the date the accounts are assigned;

(c) the tax identification numbers or other descriptions of the specific properties with respect to which the delinquent tax receivables are being assigned;

(d) the interest rate at which the delinquent taxes subject to the assignment bear interest pursuant to Section 59-2-1331;

(e) the discount or premium, if any, at which the account is assigned;

(f) a certificate representing the transfer of the rights of the county and the other participant members to receive the amounts due and owing the county and the other participant members with respect to the delinquent tax receivables transferred; and

(g) certification by the governing body of the county that all amounts received by the county with respect to the delinquent taxes, interest, and penalties assigned to the authority and owed to the county and the other participant members, for the tax years specified, upon the specified property, and the additional interest and penalties to accrue on the delinquent amounts, shall be deposited upon receipt into a special fund of the county created for this purpose and shall be used solely to pay the amounts falling due to the financing authority as specified in the assignment agreement.

(2) The assignment agreement shall contain a statement to the effect that any amounts falling due under it are payable solely from a special fund into which the county shall pay the amounts collected with respect to the delinquent tax receivables pledged and shall state that under no circumstances may the county or any of the other participant members be required to use any other funds, property, or money of the county or the other participant members or to levy any tax to satisfy amounts due under the agreement.

Amended by Chapter 189, 2014 General Session

11-32-5 Bonds authorized to pay costs of purchase of delinquent tax receivables.

(1) A financing authority may issue and sell its bonds on behalf of the participant members for the purpose of:

(a) paying the costs of purchasing the delinquent tax receivables of the participant members;

(b) paying the costs associated with the issuance of the bonds, including fees and premiums for letters of credit, bond insurance, or other forms of credit enhancement; and

(c) funding any reserve funds with respect to the bonds.

(2) The aggregate principal amount of any bonds issued pursuant to this section may not exceed 90% of the delinquent tax receivables to be purchased with the proceeds of the bonds.

(3) Bonds shall be fully negotiable for all purposes, shall bear such date or dates, shall be issued in such denominations and in such form, shall be serial bonds or term bonds, or both, shall mature at such times not exceeding 4-1/2 years from date of issue, shall bear such interest rate or rates, shall have such registration privileges, shall be executed in such manner, and shall be payable at such places and in such medium of payment as specified by the board of trustees of the financing authority in the proceedings authorizing the bonds.

(4) The bonds may bear interest at a variable interest rate as the board of trustees may authorize. The board of trustees may establish a method, formula, or index pursuant to which the interest rate on the bonds may be determined from time to time.

(5) The board of trustees of the financing authority may provide for an option to redeem all or a part of the bonds issued prior to maturity upon terms established by it. The bonds shall be sold at public or private sale upon the terms, in the manner, and at such prices, either at, in excess of, or below their face value, as determined by the board of trustees of the financing authority. Bonds may be issued in one or more series. No person executing any bond or assignment agreement under this chapter is subject to personal liability or accountability by reason of this. Bonds shall be authorized, executed, and issued in accordance with this chapter, the articles of incorporation, and the bylaws of the financing authority. No bonds may be issued by a financing authority unless the issuance of the bonds and the terms of the bonds have been approved by the governing body of the county.

Enacted by Chapter 143, 1987 General Session

11-32-6 Payment of bonds.

(1) Except as secured as provided in Subsection 11-32-7(1)(c), all bonds issued by a financing authority and the interest and premium, if any, on them, shall be payable solely out of amounts received by the authority under the assignment agreement with respect to the delinquent tax receivables acquired with the proceeds of that issue of bonds and from the proceeds of the bonds. All bonds shall so state on their face.

(2) The amounts payable by the county or the participant members under the assignment agreement shall be payable solely from a special fund into which the county shall pay all of the amounts received with respect to the delinquent tax receivables covered by the assignment agreement. All bonds shall so state on their face.

(3) Nothing in this chapter may be construed as requiring the state of Utah or any political subdivision of the state to pay any amounts due on any bond issued under this chapter, or, except for the county and the other participant members, to pay any amount due to a financing authority under the terms of any assignment agreement.

(4) Except with respect to the delinquent tax receivables pledged, nothing in this chapter may be construed as requiring the county or any participant member to appropriate any money to pay principal of or interest on the bonds or the amounts due under any assignment agreement.

(5) If a county or any participant member fails to pay any amounts due to an authority under any assignment agreement, the authority may compel the county to take the necessary legal action to collect the delinquent tax receivables covered by the assignment agreement and to use any or all of the statutory means it has to collect the delinquent taxes.

Enacted by Chapter 143, 1987 General Session

11-32-7 Bond principal and interest -- Security agreements -- Trustee.

(1) The principal of and interest on any bonds issued under this chapter:

(a) shall be secured by a pledge and assignment of the revenues received by the financing authority under the assignment agreement with respect to the delinquent tax receivables purchased with the proceeds of the sale of these bonds;

(b) may be secured by a pledge and security interest in the assignment agreement; and

(c) may be secured by amounts held in reserve funds, letters of credit, bond insurance, surety bonds, or by such other security devices with respect to the delinquent tax receivables deemed most advantageous by the authority.

(2) The proceedings under which the bonds are authorized to be issued under this chapter and any security agreement given to secure the bonds may contain any agreements and provisions customarily contained in instruments securing bonds, including provisions respecting:

(a) the collection of the delinquent taxes covered by these proceedings or any security agreement;

(b) the terms to be incorporated in the assignment agreement with respect to the delinquent tax receivables;

(c) the creation and maintenance of reserve funds from the proceeds of sale of bonds or from the collection of the delinquent taxes;

(d) the rights and remedies available to the holders of bonds or to the trustee in the event of a default, as the board of trustees of the authority may determine in accordance with this chapter.

(3) The security agreements, trust indentures, or other security devices shall provide that following the exhaustion of all legal means of collection of the delinquent tax receivables no judgment may be entered against the authority or the county or any participant members or the state of Utah or any of its political subdivisions.

(4) The proceedings authorizing bonds under this chapter, and any security agreement securing these bonds, may provide that upon default in the payment of the principal of or interest on the bonds or in the performance of any covenant or agreement contained in the proceedings or security agreement, the payment or performance may be enforced by the appointment of a receiver for the delinquent tax receivables with power to compel the county to use the statutory means it has to collect the delinquent tax receivables and apply the revenues in accordance with these proceedings or the security agreement.

(5) No breach of a security agreement, covenant, or other agreement may impose any general obligation or liability upon, nor a charge against, the county or any participant member, nor the general credit or taxing power of this state or any of its political subdivisions.

(6) The proceedings authorizing the issuance of bonds may provide for the appointment of a trustee, which may be a trust company or bank having trust powers located in or outside of this state.

Amended by Chapter 378, 2010 General Session

11-32-8 Dissolution of financing authority.

(1) The governing body of a county may at any time dissolve a financing authority created by the county in the manner then provided in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, subject to the limitations of this chapter.

(2) A financing authority may not be dissolved unless all outstanding bonds and other obligations of the authority are paid in full as to principal, interest, and redemption premiums, if any, or unless provision for the payment of them when due has been made.
(3) Upon the dissolution of a financing authority all assets and money of the authority remaining after a provision has been made for the payment of all outstanding bonds and obligations of the authority shall be transferred to the participant members as described in Section 11-32-15 or as agreed upon between the county and the other participant members.

Amended by Chapter 300, 2000 General Session

11-32-9 Tax exemption.

All amounts becoming due under assignment agreements and all bonds issued by a financing authority and the interest accruing on them shall be exempt from all taxation in this state, except for the corporate franchise tax.

Enacted by Chapter 143, 1987 General Session

11-32-10 Application to other laws and proceedings -- Notice.

(1) This chapter is supplemental to all existing laws relating to the collection of delinquent taxes by participant members.
(2)
(a) No ordinance, resolution, or proceeding in respect to any transaction authorized by this chapter is necessary except as specifically required in this chapter nor is the publication of any resolution, proceeding, or notice relating to any transaction authorized by this chapter necessary except as required by this chapter.
(b) A publication made under this chapter may be made:
(i) for the public body's jurisdiction, as a class A notice under Section 63G-30-102, for at least seven days; and
(ii) as required in Section 45-1-101.
(c) No resolution adopted or proceeding taken under this chapter may be subject to referendum petition or to an election other than as permitted in this chapter.
(d) All proceedings adopted under this chapter may be adopted on a single reading at any legally convened meeting of the governing body or bodies or the board of trustees of the authority as appropriate.
(3) Any formal action or proceeding taken by the governing body of a county or other public body or the board of trustees of an authority under the authority of this chapter may be taken by resolution of the governing body or the board of trustees as appropriate.
(4) This chapter shall apply to all authorities created, assignment agreements executed, and bonds issued after this chapter takes effect.
(5) All proceedings taken before the effective date of this chapter by a county or other public body in connection with the creation and operation of a financing authority are validated, ratified, approved, and confirmed.

Amended by Chapter 435, 2023 General Session

11-32-11 Publication of resolutions -- Notice -- Content.

(1) The governing body of any county, or the board of trustees of any financing authority, may provide for the publication of any resolution or other proceeding adopted by it under this chapter:
(a) for the county, as a class A notice under Section 63G-30-102, for at least seven days; and
(b) as required in Section 45-1-101.
(2) In case of a resolution or other proceeding providing for the issuance of bonds, the board of trustees of a financing authority may, in lieu of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued, titled as such, containing:
(a) the name of the financing authority and the participant members;
(b) the purposes of the issue;
(c) the maximum principal amount which may be issued;
(d) the maximum number of years over which the bonds may mature;
(e) the maximum interest rate which the bonds may bear;
(f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold; and
(g) the time and place where a copy of the resolution or other proceedings authorizing the issuance of the bonds may be examined, which shall be at an office of the financing authority, identified in the notice, during regular business hours of the financing authority as described in the notice and for a period of at least 30 days after the publication of the notice.
(3) For a period of 30 days after the publication, any person in interest may contest the legality of the resolution or proceeding or any bonds or assignment agreements which may be authorized by them or any provisions made for the security and payment of the bonds or for the security and payment of the assignment agreement. After such time no person has any cause of action to contest the regularity, formality, or legality of same for any cause.

Amended by Chapter 435, 2023 General Session

11-32-12 Investment in and deposit of bonds.

Bonds issued under this chapter shall be securities in which all persons and organizations authorized to invest in any obligations of political subdivisions of this state, may properly and legally invest any funds, including capital belonging to them or within their control. Bonds are also declared to be securities which may properly and legally be deposited with, and received by, any state, county, or municipal officer, or agency of the state for any purpose for which the deposit of any obligations of political subdivisions of this state is authorized by law.

Enacted by Chapter 143, 1987 General Session

11-32-13 Financing authority as public entity -- Liberal construction of chapter.

A financing authority is a public entity and an instrumentality of the state performing essential governmental functions on behalf of participant members. To better enable financing authorities to perform these functions, this chapter shall be liberally construed.

Enacted by Chapter 143, 1987 General Session

11-32-14 Provisions of chapter control when conflict occurs.

To the extent that any one or more provisions of this chapter are in conflict with any other law or laws, the provisions of this chapter are controlling.

Enacted by Chapter 143, 1987 General Session

11-32-15 Special fund -- Apportionment of excess amounts.

(1) The provisions of Title 59, Revenue and Taxation, otherwise notwithstanding, delinquent taxes paid to the county on behalf of the participant members shall be paid into the special fund created with respect to the bonds issued by any authority.

(2) Following the payment of all bonds issued with respect to any delinquent tax receivables and all other amounts due and owing under any assignment agreement, amounts remaining on deposit with the authority or in the special fund created with respect to the issuance of the bonds shall be apportioned and distributed as follows:

(a) Any amounts which represent the amount by which the delinquent taxes recovered exceed the amount originally paid by the authority at the time of transfer of the delinquent tax receivables to the authority shall be distributed to the respective participant members, including the county, in the proportion of their respective taxes.

(b) Any amounts remaining following the distribution directed in Subsection (2)(a) shall be paid to the county.

Amended by Chapter 324, 2010 General Session

11-32-16 Deferral or abatement of taxes unaffected.

The provisions of this chapter may not be construed to prevent the county from exercising any of its powers to defer or abate taxes as provided by statute.

Enacted by Chapter 143, 1987 General Session

11-32-17 Anticipation of taxes to be considered in fixing tax rate.

To the extent that a participant member uses the provisions of this chapter to anticipate the collection of delinquent taxes in any given year, such participant member shall take such anticipation into account in fixing its tax rate for the following year.

Enacted by Chapter 143, 1987 General Session

Chapter 34
Foreign Currency Bonds

11-34-1 Definitions.

As used in this chapter:

(1) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial paper, contracts, and leases, whether they are general obligations of the issuing public body or are payable solely from a specified source, including annual appropriations by the public body.

(2) "Public body" means the state and any public department, public agency, or other public entity existing under the laws of the state, including, without limitation, any agency, authority, instrumentality, or institution of the state, and any county, city, town, municipal corporation,

quasi-municipal corporation, state university or college, school district, special service district, special district, separate legal or administrative entity created under the Interlocal Cooperation Act or other joint agreement entity, community reinvestment agency, and any other political subdivision, public authority, public agency, or public trust existing under the laws of this state.

Amended by Chapter 16, 2023 General Session

11-34-2 Bonds issued in foreign denominations -- Required conditions and agreements.

Any bonds issued by a public body may be denominated in a foreign currency, but only if, at the time of the issuance of the bonds, the public body which issues them enters into one or more foreign exchange agreements, forward exchange agreements, foreign currency exchange agreements, or other similar agreements with a bank or other financial institution, foreign or domestic, the senior unsecured long-term debt obligations of which are rated in one of the highest two rating categories by Moody's Investors Service, Inc. or Standard & Poor's Corporation or another similar nationally recognized securities rating agency, to protect the public body against the risk of a decline in the value of the United States dollar in relation to the foreign currency in which the bonds are denominated. Such agreements shall contain a provision that protects against the risk of a decline in the value of the United States dollar with respect to the interest on the bonds and the principal of the bonds to the maturity or redemption thereof. The costs of such agreements, including without limitation periodic fees and other amounts due to the other party or parties to such agreements, may be paid by the public body from the proceeds of the bonds and other revenues of the public body.

Amended by Chapter 378, 2010 General Session

Chapter 36a
Impact Fees Act

Part 1
General Provisions

11-36a-101 Title.

This chapter is known as the "Impact Fees Act."

Enacted by Chapter 47, 2011 General Session

11-36a-102 Definitions.

As used in this chapter:

(1)

(a) "Affected entity" means each county, municipality, special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or

(ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, special district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.

(2) "Charter school" includes:

(a) an operating charter school;

(b) an applicant for a charter school whose application has been approved by a charter school authorizer as provided in Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; and

(c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(3) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.

(4) "Development approval" means:

(a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;

(b) development activity, for a public entity that may develop without written authorization from a local political subdivision;

(c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:

(i) to reserve or provide:

(A) a water right;

(B) a system capacity; or

(C) a distribution facility; or

(ii) to deliver for a development activity:

(A) culinary water; or

(B) irrigation water; or

(d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:

(i) to reserve or provide:

(A) sewer collection capacity; or

(B) treatment capacity; or

(ii) to provide sewer service for a development activity.

(5) "Enactment" means:

(a) a municipal ordinance, for a municipality;

(b) a county ordinance, for a county; and

(c) a governing board resolution, for a special district, special service district, or private entity.

(6) "Encumber" means:

(a) a pledge to retire a debt; or

(b) an allocation to a current purchase order or contract.

(7) "Expense for overhead" means a cost that a local political subdivision or private entity:

(a) incurs in connection with:

(i) developing an impact fee facilities plan;

(ii) developing an impact fee analysis; or

(iii) imposing an impact fee, including any related overhead expenses; and

(b) calculates in accordance with a methodology that is consistent with generally accepted cost accounting practices.

(8) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, special district, special service district, or private entity.
(9)
(a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.
(b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.
(10) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.
(11) "Impact fee facilities plan" means the plan required by Section 11-36a-301.
(12) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.
(13)
(a) "Local political subdivision" means a county, a municipality, a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or the Point of the Mountain State Land Authority, created in Section 11-59-201.
(b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 11-36a-206.
(14) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:
(a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or
(b) functional condition of development approval because the private entity:
(i) has no reasonably equivalent competition in the immediate market; and
(ii) is the only realistic source of water for the applicant's development.
(15)
(a) "Project improvements" means site improvements and facilities that are:
(i) planned and designed to provide service for development resulting from a development activity;
(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and
(iii) not identified or reimbursed as a system improvement.
(b) "Project improvements" does not mean system improvements.
(16) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.
(17) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:
(a) water rights and water supply, treatment, storage, and distribution facilities;
(b) wastewater collection and treatment facilities;
(c) storm water, drainage, and flood control facilities;
(d) municipal power facilities;

(e) roadway facilities;
(f) parks, recreation facilities, open space, and trails;
(g) public safety facilities;
(h) environmental mitigation as provided in Section 11-36a-205; or
(i) municipal natural gas facilities.
(18)
(a) "Public safety facility" means:
(i) a building constructed or leased to house police, fire, or other public safety entities; or
(ii) a fire suppression vehicle costing in excess of $500,000.
(b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.
(19)
(a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.
(b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:
(i) are necessitated by the new development; and
(ii) are not funded by the state or federal government.
(c) "Roadway facilities" does not mean federal or state roadways.
(20)
(a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.
(b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.
(21) "Specified public agency" means:
(a) the state;
(b) a school district; or
(c) a charter school.
(22)
(a) "System improvements" means:
(i) existing public facilities that are:
(A) identified in the impact fee analysis under Section 11-36a-304; and
(B) designed to provide services to service areas within the community at large; and
(ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.
(b) "System improvements" does not mean project improvements.

Amended by Chapter 16, 2023 General Session

Part 2
Impact Fees

11-36a-201 Impact fees.

(1) A local political subdivision or private entity shall ensure that any imposed impact fees comply with the requirements of this chapter.

(2) A local political subdivision and private entity may establish impact fees only for those public facilities defined in Section 11-36a-102.
(3) Nothing in this chapter may be construed to repeal or otherwise eliminate an impact fee in effect on the effective date of this chapter that is pledged as a source of revenues to pay bonded indebtedness that was incurred before the effective date of this chapter.

Enacted by Chapter 47, 2011 General Session

11-36a-202 Prohibitions on impact fees.
(1) A local political subdivision or private entity may not:
(a) impose an impact fee to:
(i) cure deficiencies in a public facility serving existing development;
(ii) raise the established level of service of a public facility serving existing development; or
(iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement;
(b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or
(c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.
(2)
(a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:
(i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;
(ii) on a school district or charter school for a park, recreation facility, open space, or trail;
(iii) on a school district or charter school unless:
(A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and
(B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements;
(iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:
(A) the Utah National Guard;
(B) the Utah Highway Patrol; or
(C) a state institution of higher education that has its own police force;
(v) on development activity on fair park land, as defined in Section 11-68-101; or
(vi) on development activity that consists of the construction of an internal accessory dwelling unit, as defined in Section 10-9a-530, within an existing primary dwelling.
(b)
(i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:
(A) the school is intended to replace another school, whether on the same or a different parcel;
(B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and

(C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.

(ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)(i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.

(c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:

(i) the state's development causes an impact on the road facility; and

(ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.

(3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 11-36a-206.

Amended by Chapter 502, 2023 General Session

11-36a-203 Private entity assessment of impact fees -- Charges for water rights, physical infrastructure -- Notice -- Audit.

(1) A private entity:

(a) shall comply with the requirements of this chapter before imposing an impact fee; and

(b) except as otherwise specified in this chapter, is subject to the same requirements of this chapter as a local political subdivision.

(2) A private entity may only impose a charge for water rights or physical infrastructure necessary to provide water or sewer facilities by imposing an impact fee.

(3) Where notice and hearing requirements are specified, a private entity shall comply with the notice and hearing requirements for special districts.

(4) A private entity that assesses an impact fee under this chapter is subject to the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Amended by Chapter 16, 2023 General Session

11-36a-204 Other names for impact fees.

(1) A fee that meets the definition of impact fee under Section 11-36a-102 is an impact fee subject to this chapter, regardless of what term the local political subdivision or private entity uses to refer to the fee.

(2) A local political subdivision or private entity may not avoid application of this chapter to a fee that meets the definition of an impact fee under Section 11-36a-102 by referring to the fee by another name.

Enacted by Chapter 47, 2011 General Session

11-36a-205 Environmental mitigation impact fees.

Notwithstanding the requirements and prohibitions of this chapter, a local political subdivision may impose and assess an impact fee for environmental mitigation when:

(1) the local political subdivision has formally agreed to fund a Habitat Conservation Plan to resolve conflicts with the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531, et seq. or other state or federal environmental law or regulation;
(2) the impact fee bears a reasonable relationship to the environmental mitigation required by the Habitat Conservation Plan; and
(3) the legislative body of the local political subdivision adopts an ordinance or resolution:
(a) declaring that an impact fee is required to finance the Habitat Conservation Plan;
(b) establishing periodic sunset dates for the impact fee; and
(c) requiring the legislative body to:
(i) review the impact fee on those sunset dates;
(ii) determine whether or not the impact fee is still required to finance the Habitat Conservation Plan; and
(iii) affirmatively reauthorize the impact fee if the legislative body finds that the impact fee must remain in effect.

Enacted by Chapter 47, 2011 General Session

11-36a-206 Prohibition of school impact fees.
(1) As used in this section, "school impact fee" means a charge on new development in order to generate revenue for funding or recouping the costs of capital improvements for schools or school facility expansions necessitated by and attributable to the new development.
(2) Beginning March 21, 1995, there is a moratorium prohibiting a county, city, town, local school board, or any other political subdivision from imposing or collecting a school impact fee unless hereafter authorized by the Legislature by statute.
(3) Collection of any fees authorized before March 21, 1995, by any ordinance, resolution or rule of any county, city, town, local school board, or other political subdivision shall terminate on May 1, 1996, unless hereafter authorized by the Legislature by statute.

Renumbered and Amended by Chapter 3, 2018 General Session

Part 3
Establishing an Impact Fee

11-36a-301 Impact fee facilities plan.
(1) Before imposing an impact fee, each local political subdivision or private entity shall, except as provided in Subsection (3), prepare an impact fee facilities plan to determine the public facilities required to serve development resulting from new development activity.
(2) A municipality or county need not prepare a separate impact fee facilities plan if the general plan required by Section 10-9a-401 or 17-27a-401, respectively, contains the elements required by Section 11-36a-302.
(3) A local political subdivision or a private entity with a population, or serving a population, of less than 5,000 as of the last federal census that charges impact fees of less than $250,000 annually need not comply with the impact fee facilities plan requirements of this part, but shall ensure that:
(a) the impact fees that the local political subdivision or private entity imposes are based upon a reasonable plan that otherwise complies with the common law and this chapter; and

(b) each applicable notice required by this chapter is given.

Amended by Chapter 200, 2013 General Session

11-36a-302 Impact fee facilities plan requirements -- Limitations -- School district or charter school.

(1)

(a) An impact fee facilities plan shall:

(i) identify the existing level of service;

(ii) subject to Subsection (1)(c), establish a proposed level of service;

(iii) identify any excess capacity to accommodate future growth at the proposed level of service;

(iv) identify demands placed upon existing public facilities by new development activity at the proposed level of service; and

(v) identify the means by which the political subdivision or private entity will meet those growth demands.

(b) A proposed level of service may diminish or equal the existing level of service.

(c) A proposed level of service may:

(i) exceed the existing level of service if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service; or

(ii) establish a new public facility if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service.

(2) In preparing an impact fee facilities plan, each local political subdivision shall generally consider all revenue sources to finance the impacts on system improvements, including:

(a) grants;

(b) bonds;

(c) interfund loans;

(d) impact fees; and

(e) anticipated or accepted dedications of system improvements.

(3) A local political subdivision or private entity may only impose impact fees on development activities when the local political subdivision's or private entity's plan for financing system improvements establishes that impact fees are necessary to maintain a proposed level of service that complies with Subsection (1)(b) or (c).

(4)

(a) Subject to Subsection (4)(c), the impact fee facilities plan shall include a public facility for which an impact fee may be charged or required for a school district or charter school if the local political subdivision is aware of the planned location of the school district facility or charter school:

(i) through the planning process; or

(ii) after receiving a written request from a school district or charter school that the public facility be included in the impact fee facilities plan.

(b) If necessary, a local political subdivision or private entity shall amend the impact fee facilities plan to reflect a public facility described in Subsection (4)(a).

(c)

(i) In accordance with Subsections 10-9a-305(3) and 17-27a-305(3), a local political subdivision may not require a school district or charter school to participate in the cost of any roadway or sidewalk.

(ii) Notwithstanding Subsection (4)(c)(i), if a school district or charter school agrees to build a roadway or sidewalk, the roadway or sidewalk shall be included in the impact fee facilities plan if the local jurisdiction has an impact fee facilities plan for roads and sidewalks.

Amended by Chapter 200, 2013 General Session

11-36a-303 Impact fee analysis.

(1) Subject to the notice requirements of Section 11-36a-504, each local political subdivision or private entity intending to impose an impact fee shall prepare a written analysis of each impact fee.

(2) Each local political subdivision or private entity that prepares an impact fee analysis under Subsection (1) shall also prepare a summary of the impact fee analysis designed to be understood by a lay person.

Enacted by Chapter 47, 2011 General Session

11-36a-304 Impact fee analysis requirements.

(1) An impact fee analysis shall:

(a) identify the anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity;

(b) identify the anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility;

(c) subject to Subsection (2), demonstrate how the anticipated impacts described in Subsections (1)(a) and (b) are reasonably related to the anticipated development activity;

(d) estimate the proportionate share of:

(i) the costs for existing capacity that will be recouped; and

(ii) the costs of impacts on system improvements that are reasonably related to the new development activity; and

(e) based on the requirements of this chapter, identify how the impact fee was calculated.

(2) In analyzing whether or not the proportionate share of the costs of public facilities are reasonably related to the new development activity, the local political subdivision or private entity, as the case may be, shall identify, if applicable:

(a) the cost of each existing public facility that has excess capacity to serve the anticipated development resulting from the new development activity;

(b) the cost of system improvements for each public facility;

(c) other than impact fees, the manner of financing for each public facility, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;

(d) the relative extent to which development activity will contribute to financing the excess capacity of and system improvements for each existing public facility, by such means as user charges, special assessments, or payment from the proceeds of general taxes;

(e) the relative extent to which development activity will contribute to the cost of existing public facilities and system improvements in the future;

(f) the extent to which the development activity is entitled to a credit against impact fees because the development activity will dedicate system improvements or public facilities that will offset the demand for system improvements, inside or outside the proposed development;

(g) extraordinary costs, if any, in servicing the newly developed properties; and
(h) the time-price differential inherent in fair comparisons of amounts paid at different times.

Enacted by Chapter 47, 2011 General Session

11-36a-305 Calculating impact fees.

(1) In calculating an impact fee, a local political subdivision or private entity may include:
(a) the construction contract price;
(b) the cost of acquiring land, improvements, materials, and fixtures;
(c) for services provided for and directly related to the construction of the system improvements, the cost for planning and surveying, and engineering fees;
(d) for a political subdivision, debt service charges, if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to finance the costs of the system improvements; and
(e) one or more expenses for overhead.

(2) In calculating an impact fee, each local political subdivision or private entity shall base amounts calculated under Subsection (1) on realistic estimates, and the assumptions underlying those estimates shall be disclosed in the impact fee analysis.

Amended by Chapter 35, 2021 General Session

11-36a-306 Certification of impact fee analysis.

(1) An impact fee facilities plan shall include a written certification from the person or entity that prepares the impact fee facilities plan that states the following:
"I certify that the attached impact fee facilities plan:
1. includes only the costs of public facilities that are:
a. allowed under the Impact Fees Act; and
b. actually incurred; or
c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
a. costs of operation and maintenance of public facilities; or
b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; and
3. complies in each and every relevant respect with the Impact Fees Act."

(2) An impact fee analysis shall include a written certification from the person or entity that prepares the impact fee analysis which states as follows:
"I certify that the attached impact fee analysis:
1. includes only the costs of public facilities that are:
a. allowed under the Impact Fees Act; and
b. actually incurred; or
c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
a. costs of operation and maintenance of public facilities; or
b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
3. offsets costs with grants or other alternate sources of payment; and

4. complies in each and every relevant respect with the Impact Fees Act."

Amended by Chapter 35, 2021 General Session

Part 4
Enactment of Impact Fees

11-36a-401 Impact fee enactment.

(1)

(a) A local political subdivision or private entity wishing to impose impact fees shall pass an impact fee enactment in accordance with Section 11-36a-402.

(b) An impact fee imposed by an impact fee enactment may not exceed the highest fee justified by the impact fee analysis.

(2) An impact fee enactment may not take effect until 90 days after the day on which the impact fee enactment is approved.

Enacted by Chapter 47, 2011 General Session

11-36a-402 Required provisions of impact fee enactment.

(1) A local political subdivision or private entity shall ensure, in addition to the requirements described in Subsections (2) and (3), that an impact fee enactment contains:

(a) a provision establishing one or more service areas within which the local political subdivision or private entity calculates and imposes impact fees for various land use categories;

(b)

(i) a schedule of impact fees for each type of development activity that specifies the amount of the impact fee to be imposed for each type of system improvement; or

(ii) the formula that the local political subdivision or private entity, as the case may be, will use to calculate each impact fee;

(c) a provision authorizing the local political subdivision or private entity, as the case may be, to adjust the standard impact fee at the time the fee is charged to:

(i) respond to:

(A) unusual circumstances in specific cases; or

(B) a request for a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has been or will be collected; and

(ii) ensure that the impact fees are imposed fairly; and

(d) a provision governing calculation of the amount of the impact fee to be imposed on a particular development that permits adjustment of the amount of the impact fee based upon studies and data submitted by the developer.

(2) A local political subdivision or private entity shall ensure that an impact fee enactment allows a developer, including a school district or a charter school, to receive a credit against or proportionate reimbursement of an impact fee if the developer:

(a) dedicates land for a system improvement;

(b) builds and dedicates some or all of a system improvement; or

(c) dedicates a public facility that the local political subdivision or private entity and the developer agree will reduce the need for a system improvement.

(3) A local political subdivision or private entity shall include a provision in an impact fee enactment that requires a credit against impact fees for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:
(a) are system improvements; or
(b)
(i) are dedicated to the public; and
(ii) offset the need for an identified system improvement.

Enacted by Chapter 47, 2011 General Session

11-36a-403 Other provisions of impact fee enactment.
(1) A local political subdivision or private entity may include a provision in an impact fee enactment that:
(a) provides an impact fee exemption for:
(i) development activity attributable to:
(A) low income housing;
(B) the state;
(C) subject to Subsection (2), a school district; or
(D) subject to Subsection (2), a charter school; or
(ii) other development activity with a broad public purpose; and
(b) except for an exemption under Subsection (1)(a)(i)(A), establishes one or more sources of funds other than impact fees to pay for that development activity.
(2) An impact fee enactment that provides an impact fee exemption for development activity attributable to a school district or charter school shall allow either a school district or a charter school to qualify for the exemption on the same basis.
(3) An impact fee enactment that repeals or suspends the collection of impact fees is exempt from the notice requirements of Section 11-36a-504.

Enacted by Chapter 47, 2011 General Session

Part 5
Notice

11-36a-501 Notice of intent to prepare an impact fee facilities plan.
(1) Before preparing or amending an impact fee facilities plan, a local political subdivision or private entity shall provide written notice of its intent to prepare or amend an impact fee facilities plan.
(2) A notice required under Subsection (1) shall:
(a) indicate that the local political subdivision or private entity intends to prepare or amend an impact fee facilities plan;
(b) describe or provide a map of the geographic area where the proposed impact fee facilities will be located; and
(c) subject to Subsection (3), be provided for the geographic area where the proposed impact fee facilities will be located, as a class A notice under Section 63G-30-102, for at least 10 days.
(3) For a private entity required to post notice under Subsection (2)(c):
(a) the private entity shall give notice to the general purpose local government in which the private entity's private business office is located; and

(b) the general purpose local government described in Subsection (3)(a) shall post the notice on the Utah Public Notice Website and, as available, on the general purpose local government's website.

Amended by Chapter 435, 2023 General Session

11-36a-502 Notice to adopt or amend an impact fee facilities plan.

(1) If a local political subdivision chooses to prepare an independent impact fee facilities plan rather than include an impact fee facilities element in the general plan in accordance with Section 11-36a-301, the local political subdivision shall, before adopting or amending the impact fee facilities plan:
(a) give public notice, in accordance with Subsection (2), of the plan or amendment at least 10 days before the day on which the public hearing described in Subsection (1)(d) is scheduled;
(b) make a copy of the plan or amendment, together with a summary designed to be understood by a lay person, available to the public;
(c) place a copy of the plan or amendment and summary in each public library within the local political subdivision; and
(d) hold a public hearing to hear public comment on the plan or amendment.
(2) With respect to the public notice required under Subsection (1)(a):
(a) each municipality shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2);
(b) each county shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 17-27a-205 and 17-27a-801 and Subsection 17-27a-502(2); and
(c) each special district, special service district, and private entity shall comply with the notice and hearing requirements of, and receive the protections of, Section 17B-1-111.
(3) Nothing contained in this section or Section 11-36a-503 may be construed to require involvement by a planning commission in the impact fee facilities planning process.

Amended by Chapter 16, 2023 General Session

11-36a-503 Notice of preparation of an impact fee analysis.

(1) Before preparing or contracting to prepare an impact fee analysis, each local political subdivision or, subject to Subsection (2), private entity shall provide a public notice for the local political subdivision, as a class A notice under Section 63G-30-102, for at least 10 days.
(2) For a private entity required to post notice under Subsection (1):
(a) the private entity shall give notice to the general purpose local government in which the private entity's primary business is located; and
(b) the general purpose local government described in Subsection (2)(a) shall post the notice on the Utah Public Notice Website and, as available, on the general purpose local government's website.

Amended by Chapter 435, 2023 General Session

11-36a-504 Notice of intent to adopt impact fee enactment -- Hearing -- Protections.

(1) Before adopting an impact fee enactment:
(a) a municipality legislative body shall:

(i) comply with the notice requirements of Section 10-9a-205 as if the impact fee enactment were a land use regulation;
(ii) hold a hearing in accordance with Section 10-9a-502 as if the impact fee enactment were a land use regulation; and
(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 10-9a-801 as if the impact fee were a land use regulation;
(b) a county legislative body shall:
(i) comply with the notice requirements of Section 17-27a-205 as if the impact fee enactment were a land use regulation;
(ii) hold a hearing in accordance with Section 17-27a-502 as if the impact fee enactment were a land use regulation; and
(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 17-27a-801 as if the impact fee were a land use regulation;
(c) a special district or special service district shall:
(i) comply with the notice and hearing requirements of Section 17B-1-111; and
(ii) receive the protections of Section 17B-1-111;
(d) a local political subdivision shall at least 10 days before the day on which a public hearing is scheduled in accordance with this section:
(i) make a copy of the impact fee enactment available to the public; and
(ii) provide notice of the local political subdivision's intent to enact or modify the impact fee, specifying the type of impact fee being enacted or modified, for the local political subdivision, as a class A notice under Section 63G-30-102, for at least 10 days; and
(e) a local political subdivision shall submit a copy of the impact fee analysis and a copy of the summary of the impact fee analysis prepared in accordance with Section 11-36a-303 on its website or to each public library within the local political subdivision.
(2) Subsection (1)(a) or (b) may not be construed to require involvement by a planning commission in the impact fee enactment process.

Amended by Chapter 16, 2023 General Session
Amended by Chapter 435, 2023 General Session

Part 6
Impact Fee Proceeds

11-36a-601 Accounting of impact fees.

A local political subdivision that collects an impact fee shall:
(1) establish a separate interest bearing ledger account for each type of public facility for which an impact fee is collected;
(2) deposit a receipt for an impact fee in the appropriate ledger account established under Subsection (1);
(3) retain the interest earned on each fund or ledger account in the fund or ledger account;
(4) at the end of each fiscal year, prepare a report that:
(a) for each fund or ledger account, shows:
(i) the source and amount of all money collected, earned, and received by the fund or ledger account during the fiscal year; and
(ii) each expenditure from the fund or ledger account;

(b) accounts for all impact fee funds that the local political subdivision has on hand at the end of the fiscal year;
(c) identifies the impact fee funds described in Subsection (4)(b) by:
(i) the year in which the impact fee funds were received;
(ii) the project from which the impact fee funds were collected;
(iii) the project for which the impact fee funds are budgeted; and
(iv) the projected schedule for expenditure; and
(d) is:
(i) in a format developed by the state auditor;
(ii) certified by the local political subdivision's chief financial officer; and
(iii) transmitted to the state auditor within 180 days after the day on which the fiscal year ends.

Amended by Chapter 394, 2017 General Session

11-36a-602 Expenditure of impact fees.
(1) A local political subdivision may expend impact fees only for a system improvement:
(a) identified in the impact fee facilities plan; and
(b) for the specific public facility type for which the fee was collected.
(2)
(a) Except as provided in Subsection (2)(b), a local political subdivision shall expend or encumber an impact fee collected with respect to a lot:
(i) for a permissible use; and
(ii) within six years after the impact fee with respect to that lot is collected.
(b) A local political subdivision may hold the fees for longer than six years if it identifies, in writing:
(i) an extraordinary and compelling reason why the fees should be held longer than six years; and
(ii) an absolute date by which the fees will be expended.

Amended by Chapter 190, 2017 General Session

11-36a-603 Refunds.
(1) A local political subdivision shall refund any impact fee paid by a developer, plus interest earned, when:
(a) the developer does not proceed with the development activity and has filed a written request for a refund;
(b) the fee has not been spent or encumbered; and
(c) no impact has resulted.
(2)
(a) As used in this Subsection (2):
(i) "Affected lot" means the lot or parcel with respect to which a local political subdivision collected an impact fee that is subject to a refund under this Subsection (2).
(ii) "Claimant" means:
(A) the original owner;
(B) the person who paid an impact fee; or
(C) another person who, under Subsection (2)(d), submits a timely notice of the person's valid legal claim to an impact fee refund.
(iii) "Original owner" means the record owner of an affected lot at the time the local political subdivision collected the impact fee.

(iv) "Unclaimed refund" means an impact fee that:
(A) is subject to refund under this Subsection (2); and
(B) the local political subdivision has not refunded after application of Subsections (2)(b) and (c).
(b) If an impact fee is not spent or encumbered in accordance with Section 11-36a-602, the local political subdivision shall, subject to Subsection (2)(c):
(i) refund the impact fee to:
(A) the original owner, if the original owner is the sole claimant; or
(B) to the claimants, as the claimants agree, if there are multiple claimants; or
(ii) interplead the impact fee refund to a court of competent jurisdiction for a determination of the entitlement to the refund, if there are multiple claimants who fail to agree on how the refund should be paid to the claimants.
(c) If the original owner's last known address is no longer valid at the time a local political subdivision attempts under Subsection (2)(b) to refund an impact fee to the original owner, the local political subdivision shall:
(i) post a notice on the local political subdivision's website, stating the local political subdivision's intent to refund the impact fee and identifying the original owner;
(ii) maintain the notice on the website for a period of one year; and
(iii) disqualify the original owner as a claimant unless the original owner submits a written request for the refund within one year after the first posting of the notice under Subsection (2)(c)(i).
(d)
(i) In order to be considered as a claimant for an impact fee refund under this Subsection (2), a person, other than the original owner, shall submit a written notice of the person's valid legal claim to the impact fee refund.
(ii) A notice under Subsection (2)(d)(i) shall:
(A) explain the person's valid legal claim to the refund; and
(B) be submitted to the local political subdivision no later than 30 days after expiration of the time specified in Subsection 11-36a-602(2) for the impact fee that is the subject of the refund.
(e) A local political subdivision:
(i) may retain an unclaimed refund; and
(ii) shall expend any unclaimed refund on capital facilities identified in the current capital facilities plan for the type of public facility for which the impact fee was collected.

Amended by Chapter 215, 2018 General Session

Part 7
Challenges

11-36a-701 Impact fee challenge.

(1) A person or an entity residing in or owning property within a service area, or an organization, association, or a corporation representing the interests of persons or entities owning property within a service area, has standing to file a declaratory judgment action challenging the validity of an impact fee.
(2)

(a) A person or an entity required to pay an impact fee who believes the impact fee does not meet the requirements of law may file a written request for information with the local political subdivision who established the impact fee.
(b) Within two weeks after the receipt of the request for information under Subsection (2)(a), the local political subdivision shall provide the person or entity with the impact fee analysis, the impact fee facilities plan, and any other relevant information relating to the impact fee.
(3)
(a) Subject to the time limitations described in Section 11-36a-702 and procedures set forth in Section 11-36a-703, a person or an entity that has paid an impact fee that a local political subdivision imposed may challenge:
(i) if the impact fee enactment was adopted on or after July 1, 2000:
(A) subject to Subsection (3)(b)(i) and except as provided in Subsection (3)(b)(ii), whether the local political subdivision complied with the notice requirements of this chapter with respect to the imposition of the impact fee; and
(B) whether the local political subdivision complied with other procedural requirements of this chapter for imposing the impact fee; and
(ii) except as limited by Subsection (3)(c), the impact fee.
(b)
(i) The sole remedy for a challenge under Subsection (3)(a)(i)(A) is the equitable remedy of requiring the local political subdivision to correct the defective notice and repeat the process.
(ii) The protections given to a municipality under Section 10-9a-801 and to a county under Section 17-27a-801 do not apply in a challenge under Subsection (3)(a)(i)(A).
(c) The sole remedy for a challenge under Subsection (3)(a)(ii) is a refund of the difference between what the person or entity paid as an impact fee and the amount the impact fee should have been if it had been correctly calculated.
(4)
(a) Subject to Subsection (4)(d), if an impact fee that is the subject of an advisory opinion under Section 13-43-205 is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion:
(i) the substantially prevailing party on that cause of action:
(A) may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution; and
(B) shall be refunded an impact fee held to be in violation of this chapter, based on the difference between the impact fee paid and what the impact fee should have been if the local political subdivision had correctly calculated the impact fee; and
(ii) in accordance with Section 13-43-206, a local political subdivision shall refund an impact fee held to be in violation of this chapter to the person who was in record title of the property on the day on which the impact fee for the property was paid if:
(A) the impact fee was paid on or after the day on which the advisory opinion on the impact fee was issued but before the day on which the final court ruling on the impact fee is issued; and
(B) the person described in Subsection (3)(a)(ii) requests the impact fee refund from the local political subdivision within 30 days after the day on which the court issued the final ruling on the impact fee.

(b) A local political subdivision subject to Subsection (3)(a)(ii) shall refund the impact fee based on the difference between the impact fee paid and what the impact fee should have been if the local political subdivision had correctly calculated the impact fee.
(c) This Subsection (4) may not be construed to create a new cause of action under land use law.
(d) Subsection (4)(a) does not apply unless the cause of action described in Subsection (4)(a) is resolved and final.
(5) Subject to the time limitations described in Section 11-36a-702 and procedures described in Section 11-36a-703, a claimant, as defined in Section 11-36a-603, may challenge whether a local political subdivision spent or encumbered an impact fee in accordance with Section 11-36a-602.

Amended by Chapter 215, 2018 General Session

11-36a-702 Time limitations.
(1) A person or an entity that initiates a challenge under Subsection 11-36a-701(3)(a) may not initiate that challenge unless it is initiated within:
(a) for a challenge under Subsection 11-36a-701(3)(a)(i)(A), 30 days after the day on which the person or entity pays the impact fee;
(b) for a challenge under Subsection 11-36a-701(3)(a)(i)(B), 180 days after the day on which the person or entity pays the impact fee;
(c) for a challenge under Subsection 11-36a-701(5):
(i) if the local political subdivision has spent or encumbered the impact fee, one year after the expiration of the time specified in Subsection 11-36a-602(2); or
(ii) if the local political subdivision has not yet spent or encumbered the impact fee, two years after the expiration of the time specified in Subsection 11-36a-602(2); or
(d) for a challenge under Subsection 11-36a-701(3)(a)(ii), one year after the day on which the person or entity pays the impact fee.
(2) The deadline to file an action in district court is tolled from the date that a challenge is filed using an administrative appeals procedure described in Section 11-36a-703 until 30 days after the day on which a final decision is rendered in the administrative appeals procedure.

Amended by Chapter 215, 2018 General Session

11-36a-703 Procedures for challenging an impact fee.
(1)
(a) A local political subdivision may establish, by ordinance or resolution, or a private entity may establish by prior written policy, an administrative appeals procedure to consider and decide a challenge to an impact fee.
(b) If the local political subdivision or private entity establishes an administrative appeals procedure, the local political subdivision shall ensure that the procedure includes a requirement that the local political subdivision make its decision no later than 30 days after the day on which the challenge to the impact fee is filed.
(2) A challenge under Subsection 11-36a-701(3)(a) is initiated by filing:
(a) if the local political subdivision or private entity has established an administrative appeals procedure under Subsection (1), the necessary document, under the administrative appeals procedure, for initiating the administrative appeal;
(b) a request for arbitration as provided in Section 11-36a-705; or
(c) an action in district court.

(3) The sole remedy for a successful challenge under Subsection 11-36a-701(1), which determines that an impact fee process was invalid, or an impact fee is in excess of the fee allowed under this act, is a declaration that, until the local political subdivision or private entity enacts a new impact fee study, from the date of the decision forward, the entity may charge an impact fee only as the court has determined would have been appropriate if it had been properly enacted.
(4) Subsections (2), (3), 11-36a-701(3), and 11-36a-702(1) may not be construed as requiring a person or an entity to exhaust administrative remedies with the local political subdivision before filing an action in district court under Subsections (2), (3), 11-36a-701(3), and 11-36a-702(1).
(5) The judge may award reasonable attorney fees and costs to the prevailing party in an action brought under this section.
(6) This chapter may not be construed as restricting or limiting any rights to challenge impact fees that were paid before the effective date of this chapter.

Amended by Chapter 200, 2013 General Session

11-36a-704 Mediation.
(1) In addition to the methods of challenging an impact fee under Section 11-36a-701, a specified public agency may require a local political subdivision or private entity to participate in mediation of any applicable impact fee.
(2) To require mediation, the specified public agency shall submit a written request for mediation to the local political subdivision or private entity.
(3) The specified public agency may submit a request for mediation under this section at any time, but no later than 30 days after the day on which an impact fee is paid.
(4) Upon the submission of a request for mediation under this section, the local political subdivision or private entity shall:
  (a) cooperate with the specified public agency to select a mediator; and
  (b) participate in the mediation process.

Enacted by Chapter 47, 2011 General Session

11-36a-705 Arbitration.
(1) A person or entity intending to challenge an impact fee under Section 11-36a-703 shall file a written request for arbitration with the local political subdivision within the time limitation described in Section 11-36a-702 for the applicable type of challenge.
(2) If a person or an entity files a written request for arbitration under Subsection (1), an arbitrator or arbitration panel shall be selected as follows:
  (a) the local political subdivision and the person or entity filing the request may agree on a single arbitrator within 10 days after the day on which the request for arbitration is filed; or
  (b) if a single arbitrator is not agreed to in accordance with Subsection (2)(a), an arbitration panel shall be created with the following members:
    (i) each party shall select an arbitrator within 20 days after the date the request is filed; and
    (ii) the arbitrators selected under Subsection (2)(b)(i) shall select a third arbitrator.
(3) The arbitration panel shall hold a hearing on the challenge no later than 30 days after the day on which:
  (a) the single arbitrator is agreed on under Subsection (2)(a); or
  (b) the two arbitrators are selected under Subsection (2)(b)(i).
(4) The arbitrator or arbitration panel shall issue a decision in writing no later than 10 days after the day on which the hearing described in Subsection (3) is completed.

(5) Except as provided in this section, each arbitration shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
(6) The parties may agree to:
 (a) binding arbitration;
 (b) formal, nonbinding arbitration; or
 (c) informal, nonbinding arbitration.
(7) If the parties agree in writing to binding arbitration:
 (a) the arbitration shall be binding;
 (b) the decision of the arbitration panel shall be final;
 (c) neither party may appeal the decision of the arbitration panel; and
 (d) notwithstanding Subsection (10), the person or entity challenging the impact fee may not also challenge the impact fee under Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).
(8)
 (a) Except as provided in Subsection (8)(b), if the parties agree to formal, nonbinding arbitration, the arbitration shall be governed by the provisions of Title 63G, Chapter 4, Administrative Procedures Act.
 (b) For purposes of applying Title 63G, Chapter 4, Administrative Procedures Act, to a formal, nonbinding arbitration under this section, notwithstanding Section 63G-4-502, "agency" means a local political subdivision.
(9)
 (a) An appeal from a decision in an informal, nonbinding arbitration may be filed with the district court in which the local political subdivision is located.
 (b) An appeal under Subsection (9)(a) shall be filed within 30 days after the day on which the arbitration panel issues a decision under Subsection (4).
 (c) The district court shall consider de novo each appeal filed under this Subsection (9).
 (d) Notwithstanding Subsection (10), a person or entity that files an appeal under this Subsection (9) may not also challenge the impact fee under Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).
(10)
 (a) Except as provided in Subsections (7)(d) and (9)(d), this section may not be construed to prohibit a person or entity from challenging an impact fee as provided in Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).
 (b) The filing of a written request for arbitration within the required time in accordance with Subsection (1) tolls all time limitations under Section 11-36a-702 until the day on which the arbitration panel issues a decision.
(11) The person or entity filing a request for arbitration and the local political subdivision shall equally share all costs of an arbitration proceeding under this section.

Enacted by Chapter 47, 2011 General Session

Chapter 39
Building Improvements and Public Works Projects

11-39-101 Definitions.

As used in this chapter:
(1) "Bid limit" means:
(a) for a building improvement:
(i) for the year 2003, $40,000; and
(ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year; and
(b) for a public works project:
(i) for the year 2003, $125,000; and
(ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year.
(2) "Building improvement":
(a) means the construction or repair of a public building or structure; and
(b) does not include construction or repair at an international airport.
(3) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.
(4)
(a) "Design-build project" means a building improvement or public works project for which both the design and construction are provided for in a single contract with a contractor or combination of contractors capable of providing design-build services.
(b) "Design-build project" does not include a building improvement or public works project:
(i) that a local entity undertakes under contract with a construction manager that guarantees the contract price and is at risk for any amount over the contract price; and
(ii) each component of which is competitively bid.
(5) "Design-build services" means the engineering, architectural, and other services necessary to formulate and implement a design-build project, including the actual construction of the project.
(6) "Emergency repairs" means a building improvement or public works project undertaken on an expedited basis to:
(a) eliminate an imminent risk of damage to or loss of public or private property;
(b) remedy a condition that poses an immediate physical danger; or
(c) reduce a substantial, imminent risk of interruption of an essential public service.
(7) "Governing body" means:
(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;
(b) for a special district, the board of trustees of the special district; and
(c) for a special service district:
(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or
(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.
(8) "Local entity" means a county, city, town, metro township, special district, or special service district.
(9) "Lowest responsive responsible bidder" means a prime contractor who:
(a) has submitted a bid in compliance with the invitation to bid and within the requirements of the plans and specifications for the building improvement or public works project;

(b) is the lowest bidder that satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements;
(c) has furnished a bid bond or equivalent in money as a condition to the award of a prime contract; and
(d) furnishes a payment and performance bond as required by law.
(10) "Procurement code" means the provisions of Title 63G, Chapter 6a, Utah Procurement Code.
(11) "Public works project":
(a) means the construction of:
(i) a park or recreational facility; or
(ii) a pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or flood control; and
(b) does not include:
(i) the replacement or repair of existing infrastructure on private property;
(ii) construction commenced before June 1, 2003; and
(iii) construction or repair at an international airport.
(12) "Special district" means the same as that term is defined in Section 17B-1-102.
(13) "Special service district" has the same meaning as defined in Section 17D-1-102.

Amended by Chapter 16, 2023 General Session

11-39-102 Requirement for plans and specifications and cost estimate.

Each local entity intending to undertake a building improvement or public works project paid for by the local entity shall cause:
(1) plans and specifications to be made for the building improvement or public works project; and
(2) an estimate of the cost of the building improvement or public works project to be made.

Enacted by Chapter 259, 2003 General Session

11-39-103 Requirements for undertaking a building improvement or public works project -- Request for bids -- Notice -- Authority to reject bids.

(1) If the estimated cost of the building improvement or public works project exceeds the bid limit, the local entity shall, if it determines to proceed with the building improvement or public works project:
(a) request bids for completion of the building improvement or public works project by
(i) providing notice for the local entity, as a class A notice under Section 63G-30-102, except the notice described in Subsection 63G-30-102(1)(c), for at least five days before opening the bids; and
(ii) at least five days before opening the bids, posting notice on a state website that is:
(A) owned or managed by or provided under contract with the division; and
(B) established for the purpose of posting public procurement notices; and
(b) except as provided in Subsection (3), enter into a contract for the completion of the building improvement or public works project with:
(i) the lowest responsive responsible bidder; or
(ii) for a design-build project formulated by a local entity, a responsible bidder that:
(A) offers design-build services; and

(B) satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements for a design-build project.

(2)

(a) Each notice under Subsection (1)(a) shall indicate that the local entity may reject any or all bids submitted.

(b)

(i) The cost of a building improvement or public works project may not be divided to avoid:

(A) exceeding the bid limit; and

(B) subjecting the local entity to the requirements of this section.

(ii) Notwithstanding Subsection (2)(b)(i), a local entity may divide the cost of a building improvement or public works project that would, without dividing, exceed the bid limit if the local entity complies with the requirements of this section with respect to each part of the building improvement or public works project that results from dividing the cost.

(3)

(a) The local entity may reject any or all bids submitted.

(b) If the local entity rejects all bids submitted but still intends to undertake the building improvement or public works project, the local entity shall again request bids by following the procedure provided in Subsection (1)(a).

(c) If, after twice requesting bids by following the procedure provided in Subsection (1)(a), the local entity determines that no satisfactory bid has been submitted, the governing body may undertake the building improvement or public works project as it considers appropriate.

Amended by Chapter 75, 2023 General Session, (Coordination Clause)
Amended by Chapter 75, 2023 General Session
Amended by Chapter 435, 2023 General Session

11-39-104 Exceptions.

(1) The requirements of Section 11-39-103 do not apply to:

(a) emergency repairs;

(b) a building improvement or public works project if the estimated cost under Section 11-39-102 is less than the bid limit; or

(c) the conduct or management of any of the departments, business, or property of the local entity.

(2) This section may not be construed to limit the application of Section 72-6-108 to an improvement project, as defined in Section 72-6-109, that would otherwise be subject to Section 72-6-108.

(3) This part applies to a building improvement or public works project of a special service district only to the extent that the contract for the building improvement or public works project is in a class of contract designated under Section 17D-1-107 as subject to this part.

Amended by Chapter 360, 2008 General Session

11-39-105 Retained payments.

Each payment that the local entity retains on a contract with a private person, firm, or corporation shall be retained and released as provided in Section 13-8-5.

Enacted by Chapter 259, 2003 General Session

11-39-106 Attorney's fees and costs in civil action.

In a civil action to enforce the provisions of this part against a local entity, the court may award attorney's fees and costs to the prevailing party.

Enacted by Chapter 259, 2003 General Session

11-39-107 Procurement code.

(1) This chapter may not be construed to:

(a) prohibit a county or municipal legislative body from adopting the procedures of the procurement code; or

(b) limit the application of the procurement code to a special district or special service district.

(2) A local entity may adopt procedures for the following construction contracting methods:

(a) construction manager/general contractor, as defined in Section 63G-6a-103;

(b) a method that requires that the local entity draft a plan, specifications, and an estimate for the building improvement or public works project; or

(c) design-build, as defined in Section 63G-6a-103, if the local entity consults with a professional engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, or an architect licensed under Title 58, Chapter 3a, Architects Licensing Act, who has design-build experience and is employed by or under contract with the local entity.

(3)

(a) In seeking bids and awarding a contract for a building improvement or public works project, a county or a municipal legislative body may elect to follow the provisions of the procurement code, as the county or municipal legislative body considers appropriate under the circumstances, for specification preparation, source selection, or contract formation.

(b) A county or municipal legislative body's election to adopt the procedures of the procurement code may not excuse the county or municipality, respectively, from complying with the requirements to award a contract for work in excess of the bid limit and to publish notice of the intent to award.

(c) An election under Subsection (3)(a) may be made on a case-by-case basis, unless the county or municipality has previously adopted the procurement code.

(d) The county or municipal legislative body shall:

(i) make each election under Subsection (3)(a) in an open meeting; and

(ii) specify in its action the portions of the procurement code to be followed.

(4) If the estimated cost of the building improvement or public works project proposed by a special district or special service district exceeds the bid limit, the governing body of the special district or special service district may, if it determines to proceed with the building improvement or public works project, use the competitive procurement procedures of the procurement code in place of the comparable provisions of this chapter.

Amended by Chapter 16, 2023 General Session

Chapter 40
Criminal Background Checks by Political Subdivisions Operating Water Systems

11-40-101 Definitions.

As used in this chapter:

(1) "Applicant" means a person who seeks employment with a public water utility, either as an employee or as an independent contractor, and who, after employment, would, in the judgment of the public water utility, be in a position to affect the safety or security of the publicly owned treatment works or public water system or to affect the safety or well-being of patrons of the public water utility.

(2) "Division" means the Criminal Investigation and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(3) "Independent contractor":

(a) means an engineer, contractor, consultant, or supplier who designs, constructs, operates, maintains, repairs, replaces, or provides water treatment or conveyance facilities or equipment, or related control or security facilities or equipment, to the public water utility; and

(b) includes the employees and agents of the engineer, contractor, consultant, or supplier.

(4) "Person seeking access" means a person who seeks access to a public water utility's public water system or publicly owned treatment works and who, after obtaining access, would, in the judgment of the public water utility, be in a position to affect the safety or security of the publicly owned treatment works or public water system or to affect the safety or well-being of patrons of the public water utility.

(5) "Publicly owned treatment works" has the same meaning as defined in Section 19-5-102.

(6) "Public water system" has the same meaning as defined in Section 19-4-102.

(7) "Public water utility" means a county, city, town, special district under Title 17B, Chapter 1, Provisions Applicable to All Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or other political subdivision of the state that operates publicly owned treatment works or a public water system.

Amended by Chapter 16, 2023 General Session

11-40-102 Criminal background check authorized -- Written notice required.

(1) A public water utility may:

(a) require an applicant to submit to a criminal background check as a condition of employment;

(b) periodically require existing employees of the public water utility to submit to a criminal background check if, in the judgment of the public water utility, the employee is in a position to affect the safety or security of the publicly owned treatment works or public water system or to affect the safety or well-being of patrons of the public water utility; and

(c) require a person seeking access to submit to a criminal background check as a condition of acquiring access.

(2)

(a) Each applicant, person seeking access, and existing employee described in Subsection (1)(b) shall, if required by the public water utility:

(i) submit a fingerprint card in a form acceptable to the division; and

(ii) consent to a fingerprint background check by:

(A) the Utah Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(b) If requested by a public water utility, the division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for each applicant, person seeking access, or existing employee through a national criminal history system.

(c)

(i) A public water utility may make an applicant's employment with the public water utility or the access of a person seeking access conditional pending completion of a criminal background check under this section.

(ii) If a criminal background check discloses that an applicant or a person seeking access failed to disclose accurately a criminal history, the public water utility may deny or, if conditionally given, immediately terminate the applicant's employment or the person's access.

(iii) If an applicant or person seeking access accurately disclosed the relevant criminal history and the criminal background check discloses that the applicant or person seeking access has been convicted of a crime that indicates a potential risk for the safety of the public water utility's public water system or publicly owned treatment works or for the safety or well-being of patrons of the public water utility, the public water utility may deny or, if conditionally given, immediately terminate the applicant's employment or the person's access.

(3) Each public water utility that requests a criminal background check under Subsection (1) shall prepare criteria for which criminal activity will preclude employment and shall provide written notice to the person who is the subject of the criminal background check that the background check has been requested.

Amended by Chapter 90, 2004 General Session

11-40-103 Duties of the Criminal Investigation and Technical Services Division -- Costs of separate file and background check.

(1) If a public water utility requests the division to conduct a criminal background check, the division shall:

(a) release to the public water utility the full record of criminal convictions for the person who is the subject of the background check;

(b) if requested by the public water utility, seek additional information from regional or national criminal data files in conducting the criminal background check;

(c) maintain a separate file of fingerprints submitted under Section 11-40-102; and

(d) notify the requesting public water utility when a new entry is made against a person whose fingerprints are held in the file.

(2)

(a) Each public water utility requesting a criminal background check shall pay the cost of maintaining the separate file under Subsection (1) from fees charged to those whose fingerprints are submitted to the division.

(b) Each public water utility requesting the division to conduct a criminal background check shall pay the cost of the background check, and the money collected shall be credited to the division to offset its expenses.

Enacted by Chapter 39, 2003 General Session

11-40-104 Written notice to person whose employment is denied or terminated -- Right to respond and seek review.

If a public water utility denies or terminates the employment of a person because of information obtained through a criminal background check under this chapter, the public water utility shall:

(1) notify the person in writing of the reasons for the denial or termination; and

(2) give the person an opportunity to respond to the reasons and to seek review of the denial or termination through administrative procedures established by the public water utility.

Enacted by Chapter 39, 2003 General Session

Chapter 41
Prohibition on Retail Facility Incentive Payments Act

11-41-101 Title.

This chapter is known as the "Prohibition on Sales and Use Tax Incentive Payments Act."

Enacted by Chapter 283, 2004 General Session

11-41-102 Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a public entity and a person.
(2) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.
(3) "Determination of violation" means a determination by the Governor's Office of Economic Opportunity of substantial likelihood that a retail facility incentive payment has been made in violation of Section 11-41-103, in accordance with Section 11-41-104.
(4) "Environmental mitigation" means an action or activity intended to remedy known negative impacts to the environment.
(5) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.
(6) "General plan" means the same as that term is defined in Section 23A-6-101.
(7) "Mixed-use development" means development with mixed land uses, including housing.
(8) "Moderate income housing plan" means the moderate income housing plan element of a general plan.
(9) "Office" means the Governor's Office of Economic Opportunity.
(10) "Political subdivision" means any county, city, town, metro township, school district, special district, special service district, community reinvestment agency, or entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act.
(11) "Public entity" means:
  (a) a political subdivision;
  (b) a state agency as defined in Section 63J-1-220;
  (c) a higher education institution as defined in Section 53B-1-201;
  (d) the Military Installation Development Authority created in Section 63H-1-201;
  (e) the Utah Inland Port Authority created in Section 11-58-201; or
  (f) the Point of the Mountain State Land Authority created in Section 11-59-201.
(12) "Public funds" means any money received by a public entity that is derived from:
  (a) a sales and use tax authorized under Title 59, Chapter 12, Sales and Use Tax Act; or
  (b) a property tax levy.
(13) "Public infrastructure" means:
  (a) a public facility as defined in Section 11-36a-102; or
  (b) public infrastructure included as part of an infrastructure master plan related to a general plan.
(14) "Retail facility" means any facility operated by a business entity for the primary purpose of making retail transactions.
(15)

(a) "Retail facility incentive payment" means a payment of public funds:
(i) to a person by a public entity;
(ii) for the development, construction, renovation, or operation of a retail facility within an area of the state; and
(iii) in the form of:
(A) a payment;
(B) a rebate;
(C) a refund;
(D) a subsidy; or
(E) any other similar incentive, award, or offset.
(b) "Retail facility incentive payment" does not include a payment of public funds for:
(i) the development, construction, renovation, or operation of:
(A) public infrastructure; or
(B) a structured parking facility;
(ii) the demolition of an existing facility;
(iii) assistance under a state or local:
(A) main street program; or
(B) historic preservation program;
(iv) environmental mitigation or sanitation, if determined by a state or federal agency under applicable state or federal law;
(v) assistance under a water conservation program or energy efficiency program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program;
(vi) emergency aid or assistance, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to receive the emergency aid or assistance; or
(vii) assistance under a public safety or security program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program.
(16) "Retail transaction" means any transaction subject to a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.
(17)
(a) "Small business" means a business entity that:
(i) has fewer than 30 full-time equivalent employees; and
(ii) maintains the business entity's principal office in the state.
(b) "Small business" does not include:
(i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;
(ii) a dealer, as defined in Section 41-1a-102; or
(iii) a subsidiary or affiliate of another business entity that is not a small business.

Amended by Chapter 16, 2023 General Session
Amended by Chapter 34, 2023 General Session

11-41-103 Prohibition on retail facility incentive payments -- Exceptions.
(1) Except as provided in Subsection (2), a public entity may not:
(a) make a retail facility incentive payment under an agreement that is initiated or entered into on or after July 1, 2022; or

(b) initiate or enter into an agreement on or after July 1, 2022, to make a retail facility incentive payment.

(2) Notwithstanding Subsection (1), a public entity may make a retail facility incentive payment for:

(a) a retail facility located entirely within a census tract in which more than 51% of residents have a household income at or below 70% of the county area median income;

(b) a retail facility included as part of a mixed-use development in which:

(i) the development includes at least one housing unit for every 1,250 square feet of retail space within the development; and

(ii) at least 10% of the new or proposed housing units within the development qualify as moderate income housing, in accordance with the moderate income housing plan of the municipality or county in which the development is located;

(c) a retail facility included as part of a development in which:

(i) the retail facility has a gross sales floor area of no more than 20,000 square feet; and

(ii) no other retail facility with a gross sales floor area of more than 20,000 square feet is located within the same development;

(d) a retail facility located within a county of the fourth, fifth, or sixth class;

(e) a retail facility for a small business;

(f) a retail facility for a Utah-based nonprofit arts or cultural organization; or

(g) a retail facility for a ski resort that:

(i) has been in operation for at least 40 years; and

(ii) provides at least 1,000 acres for skiing.

(3) A person who receives public funds for a mixed-use development in accordance with Subsection (2)(b) may not use the public funds for the development, construction, renovation, or operation of housing units within the mixed-use development unless the housing units qualify as moderate income housing in accordance with the moderate income housing plan of the municipality or county in which the development is located.

(4)

(a) For each fiscal year that a public entity makes a retail facility incentive payment described in Subsections (2)(a) through (c), the public entity shall submit a written report to the office in accordance with Subsection 11-41-104(1).

(b) For each fiscal year that a public entity makes a retail facility incentive payment described in Subsections (2)(d) through (g), the public entity shall submit a notification to the office in accordance with Subsection 11-41-104(2).

Amended by Chapter 307, 2022 General Session

11-41-104 Reporting and notification requirements -- Notice to state auditor.

(1)

(a) For a fiscal year beginning on or after July 1, 2022, a public entity that makes a retail facility incentive payment described in Subsections 11-41-103(2)(a) through (c) shall submit a written report to the office on or before June 30 of the fiscal year in which the retail facility incentive payment is made.

(b) The report under Subsection (1)(a) shall:

(i) provide a description of each retail facility incentive payment under Subsections 11-41-103(2)(a) through (c) that the public entity made during the fiscal year, including:

(A) the type of retail facility incentive payment;

(B) the date on which the retail facility incentive payment was made; and

(C) identification of the recipient of the retail facility incentive payment;

(ii) include any other information requested by the office; and
(iii) be in a form prescribed by the office.
(2)
(a) For a fiscal year beginning on or after July 1, 2022, a public entity that makes a retail facility incentive payment described in Subsections 11-41-103(2)(d) through (g) shall submit a notification to the office on or before June 30 of the fiscal year in which the retail facility incentive payment is made.
(b) The notification under Subsection (2)(a) shall:
(i) list each retail facility incentive payment under Subsections 11-41-103(2)(d) through (g) that the public entity made during the fiscal year, including the date on which the retail facility incentive payment was made;
(ii) include any other information requested by the office; and
(iii) be in a form prescribed by the office.
(3) Upon the receipt of a report from a public entity under Subsection (1), the office shall review the report to determine whether each retail facility incentive payment described in the report is in compliance with Section 11-41-103.
(4) After reviewing a public entity's report under Subsection (3), the office shall send a written notice to the public entity if the office determines there is a substantial likelihood that the public entity made a retail facility incentive payment in violation of Section 11-41-103.
(5) The notice under Subsection (4) shall include:
(a) a statement that describes in reasonable detail how the office made a determination of violation;
(b) an explanation of the public entity's right to appeal the determination of violation in accordance with Subsection (6); and
(c) a statement that the office may send notice of the determination of violation to the state auditor in accordance with Subsection (7) if:
(i)
(A) the public entity does not appeal the determination of violation in accordance with Subsection (6); and
(B) the office determines that the public entity has failed to make efforts to recover or recoup the amount of public funds lost to the state as a result of the violation within 90 days after the day on which the notice is sent; or
(ii)
(A) the determination of violation is upheld on appeal in accordance with Subsection (6); and
(B) the office determines that the public entity has failed to make efforts to recover or recoup the amount of public funds lost to the state as a result of the violation within 90 days after the day on which the determination of violation is upheld.
(6)
(a) The public entity may appeal the determination of violation by sending a written notice to the office within 30 days after the day on which the notice described in Subsection (5) is sent.
(b) The notice under Subsection (6)(a) shall include a statement that describes in reasonable detail each objection to the determination of violation.
(c) The executive director shall:
(i) within 90 days after the day on which the office receives notice under Subsection (6)(a), hold a meeting with representatives of the public entity at which the public entity's objections to the determination of violation are discussed; and
(ii) within 30 days after the day on which the meeting under Subsection (6)(c)(i) is held:
(A) issue a written decision that upholds or rescinds the determination of violation; and

(B) send a copy of the written decision to the public entity.
(d) An appeal under this Subsection (6) is not subject to Title 63G, Chapter 4, Administrative Procedures Act.
(7)
(a) Beginning July 1, 2024, the office may send a written notice to the state auditor if the office determines that:
(i) Subsection (5)(c)(i) or (ii) applies to a public entity; or
(ii) a public entity failed to submit the report described in Subsection (1).
(b) The notice under Subsection (7)(a) shall include:
(i) a description of the office's grounds for sending notice;
(ii) a copy of the report submitted to the office under Subsection (1), if applicable; and
(iii) any other information required by the state auditor for purposes of initiating an audit or investigation in accordance with Section 67-3-1.
(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to implement this section.

Enacted by Chapter 307, 2022 General Session

Chapter 42
Assessment Area Act

Part 1
General Provisions

11-42-101 Title.
This chapter is known as the "Assessment Area Act."

Enacted by Chapter 329, 2007 General Session

11-42-102 Definitions.
(1) As used in this chapter:
(a) "Adequate protests" means, for all proposed assessment areas except sewer assessment areas, timely filed, written protests under Section 11-42-203 that represent at least 40% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:
(i) protests relating to:
(A) property that has been deleted from a proposed assessment area; or
(B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and
(ii) protests that have been withdrawn under Subsection 11-42-203(3).
(b) "Adequate protests" means, for a proposed sewer assessment area, timely filed, written protests under Section 11-42-203 that represent at least 70% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the

assessment is proposed to be levied, after eliminating adequate protests under Subsection (1)(a).
(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.
(3) "Assessment bonds" means bonds that are:
(a) issued under Section 11-42-605; and
(b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.
(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.
(5) "Assessment lien" means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.
(6) "Assessment method" means the method:
(a) by which an assessment is levied against benefitted property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method; and
(b) that, when applied to a benefitted property, accounts for an assessment that meets the requirements of Section 11-42-409.
(7) "Assessment ordinance" means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.
(8) "Assessment resolution" means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.
(9) "Benefitted property" means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.
(10) "Bond anticipation notes" means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.
(11) "Bonds" means assessment bonds and refunding assessment bonds.
(12) "Commercial area" means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.
(13)
(a) "Commercial or industrial real property" means real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:
(i) commercial;
(ii) mining;
(iii) industrial;
(iv) manufacturing;
(v) governmental;
(vi) trade;
(vii) professional;
(viii) a private or public club;
(ix) a lodge;
(x) a business; or
(xi) a similar purpose.
(b) "Commercial or industrial real property" includes real property that:

(i) is used as or held for dwelling purposes; and
(ii) contains more than four rental units.
(14) "Connection fee" means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.
(15) "Contract price" means:
(a) the cost of acquiring an improvement, if the improvement is acquired; or
(b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.
(16) "Designation ordinance" means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.
(17) "Designation resolution" means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.
(18) "Development authority" means:
(a) the Utah Inland Port Authority created in Section 11-58-201; or
(b) the military installation development authority created in Section 63H-1-201.
(19) "Economic promotion activities" means activities that promote economic growth in a commercial area of a local entity, including:
(a) sponsoring festivals and markets;
(b) promoting business investment or activities;
(c) helping to coordinate public and private actions; and
(d) developing and issuing publications designed to improve the economic well-being of the commercial area.
(20) "Environmental remediation activity" means a surface or subsurface enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth movement, or change to grade or elevation that improves the use, function, aesthetics, or environmental condition of publicly owned property.
(21) "Equivalent residential unit" means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.
(22) "Governing body" means:
(a) for a county, city, or town, the legislative body of the county, city, or town;
(b) for a special district, the board of trustees of the special district;
(c) for a special service district:
(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or
(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;
(d) for the military installation development authority created in Section 63H-1-201, the board, as defined in Section 63H-1-102;
(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102; and
(f) for a public infrastructure district, the board of the public infrastructure district as defined in Section 17D-4-102.
(23) "Guaranty fund" means the fund established by a local entity under Section 11-42-701.
(24) "Improved property" means property upon which a residential, commercial, or other building has been built.
(25) "Improvement":

(a)
(i) means a publicly owned infrastructure, facility, system, or environmental remediation activity that:
(A) a local entity is authorized to provide;
(B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or
(C) a local entity is requested to provide through an interlocal agreement in accordance with Chapter 13, Interlocal Cooperation Act; and
(ii) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:
(A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection (25)(a)(i); and
(B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or
(b) for a special district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.
(26) "Improvement revenues":
(a) means charges, fees, impact fees, or other revenues that a local entity receives from improvements; and
(b) does not include revenue from assessments.
(27) "Incidental refunding costs" means any costs of issuing refunding assessment bonds and calling, retiring, or paying prior bonds, including:
(a) legal and accounting fees;
(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;
(c) underwriting discount costs, printing costs, the costs of giving notice;
(d) any premium necessary in the calling or retiring of prior bonds;
(e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;
(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of refunding assessment bonds; and
(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.
(28) "Installment payment date" means the date on which an installment payment of an assessment is payable.
(29) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.
(30) "Jurisdictional boundaries" means:
(a) for a county, the boundaries of the unincorporated area of the county; and
(b) for each other local entity, the boundaries of the local entity.
(31) "Local entity" means:
(a) a county, city, town, special service district, or special district;
(b) an interlocal entity as defined in Section 11-13-103;
(c) the military installation development authority, created in Section 63H-1-201;
(d) a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, including a public infrastructure district created by a development authority;
(e) the Utah Inland Port Authority, created in Section 11-58-201; or
(f) any other political subdivision of the state.

(32) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.
(33) "Mailing address" means:
(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and
(b) if the property is improved property:
(i) the property's street number; or
(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.
(34) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.
(35) "Operation and maintenance costs":
(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and
(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.
(36) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.
(37) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.
(38) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.
(39) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.
(40) "Project engineer" means the surveyor or engineer employed by or the private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.
(41) "Property" includes real property and any interest in real property, including water rights and leasehold rights.
(42) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.
(43) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.
(44) "Public agency" means:
(a) the state or any agency, department, or division of the state; and
(b) a political subdivision of the state.
(45) "Reduced payment obligation" means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.
(46) "Refunding assessment bonds" means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

(47) "Reserve fund" means a fund established by a local entity under Section 11-42-702.
(48) "Service" means:
(a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;
(b) economic promotion activities; or
(c) any other service that a local entity is required or authorized to provide.
(49)
(a) "Sewer assessment area" means an assessment area that has as the assessment area's primary purpose the financing and funding of public improvements to provide sewer service where there is, in the opinion of the local board of health, substantial evidence of septic system failure in the defined area due to inadequate soils, high water table, or other factors proven to cause failure.
(b) "Sewer assessment area" does not include property otherwise located within the assessment area:
(i) on which an approved conventional or advanced wastewater system has been installed during the previous five calendar years;
(ii) for which the local health department has inspected the system described in Subsection (49)(b)(i) to ensure that the system is functioning properly; and
(iii) for which the property owner opts out of the proposed assessment area for the earlier of a period of 10 calendar years or until failure of the system described in Subsection (49)(b)(i).
(50) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts
(51) "Special service district" means the same as that term is defined in Section 17D-1-102.
(52) "Unassessed benefitted government property" means property that a local entity may not assess in accordance with Section 11-42-408 but is benefitted by an improvement, operation and maintenance, or economic promotion activities.
(53) "Unimproved property" means property upon which no residential, commercial, or other building has been built.
(54) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

Amended by Chapter 16, 2023 General Session

11-42-103 Limit on effect of this chapter.
(1) Nothing in this chapter may be construed to authorize a local entity to provide an improvement or service that the local entity is not otherwise authorized to provide.
(2) Notwithstanding Subsection (1), a local entity may provide an environmental remediation activity that the local entity finds or determines to be in the public interest.

Amended by Chapter 470, 2017 General Session

11-42-104 Waiver by property owners -- Requirements.
(1) The owners of property to be assessed within an assessment area may waive:
(a) the prepayment period under Subsection 11-42-411(6);
(b) a procedure that a local entity is required to follow to:
(i) designate an assessment area; or
(ii) levy an assessment; or
(c) a period to contest a local entity action.

(2) Each waiver under this section shall:
(a) be in writing;
(b) be signed by all the owners of property to be assessed within the assessment area;
(c) describe the prepayment period, procedure, or contest period being waived;
(d) state that the owners waive the prepayment period, procedure, or contest period; and
(e) state that the owners consent to the local entity taking the required action to waive the prepayment period, procedure, or contest period.

Enacted by Chapter 329, 2007 General Session

11-42-105 No limitation on other local entity powers -- Conflict with other statutory provisions.

(1) This chapter may not be construed to limit a power that a local entity has under other applicable law to:
(a) make an improvement or provide a service;
(b) create a district;
(c) levy an assessment or tax; or
(d) issue bonds or refunding bonds.
(2) If there is a conflict between a provision of this chapter and any other statutory provision, the provision of this chapter governs.

Enacted by Chapter 329, 2007 General Session

11-42-106 Action to contest assessment or proceeding -- Requirements -- Exclusive remedy -- Bonds and assessment incontestable.

(1) A person who contests an assessment or any proceeding to designate an assessment area or levy an assessment may commence a civil action against the local entity to:
(a) set aside a proceeding to designate an assessment area; or
(b) enjoin the levy or collection of an assessment.
(2)
(a) Each action under Subsection (1) shall be commenced in the district court with jurisdiction in the county in which the assessment area is located.
(b)
(i) Except as provided in Subsection (2)(b)(ii), an action under Subsection (1) may not be commenced against and a summons relating to the action may not be served on the local entity more than 60 days after the effective date of the:
(A) designation resolution or designation ordinance, if the challenge is to the designation of an assessment area;
(B) assessment resolution or ordinance, if the challenge is to an assessment; or
(C) amended resolution or ordinance, if the challenge is to an amendment.
(ii) The period for commencing an action and serving a summons under Subsection (2)(b)(i) is 30 days if the designation resolution, assessment resolution, or amended resolution was:
(A) adopted by a development authority or a public infrastructure district created by a development authority under Title 17D, Chapter 4, Public Infrastructure District Act; and
(B) all owners of property within the assessment area or proposed assessment area consent in writing to the designation resolution, assessment resolution, or amended resolution.
(3)
(a) An action under Subsection (1) is the exclusive remedy of a person who:

(i) claims an error or irregularity in an assessment or in any proceeding to designate an assessment area or levy an assessment; or
(ii) challenges a bondholder's right to repayment.
(b) A court may not hear any complaint under Subsection (1) that a person was authorized to make but did not make in a protest under Section 11-42-203 or at a hearing under Section 11-42-204.
(c)
(i) If a person has not brought a claim for which the person was previously authorized to bring but is otherwise barred from making under Subsection (2)(b), the claim may not be brought later because of an amendment to the resolution or ordinance unless the claim arises from the amendment itself.
(ii) In an action brought pursuant to Subsection (1), a person may not contest a previous decision, proceeding, or determination for which the service deadline described in Subsection (2)(b) has expired by challenging a subsequent decision, proceeding, or determination.
(4) An assessment or a proceeding to designate an assessment area or to levy an assessment may not be declared invalid or set aside in part or in whole because of an error or irregularity that does not go to the equity or justice of the proceeding or the assessment meeting the requirements of Section 11-42-409.
(5) After the expiration of the period referred to in Subsection (2)(b):
(a) assessment bonds and refunding assessment bonds issued or to be issued with respect to an assessment area and assessments levied on property in the assessment area become at that time incontestable against all persons who have not commenced an action and served a summons as provided in this section; and
(b) a suit to enjoin the issuance or payment of assessment bonds or refunding assessment bonds, the levy, collection, or enforcement of an assessment, or to attack or question in any way the legality of assessment bonds, refunding assessment bonds, or an assessment may not be commenced, and a court may not inquire into those matters.
(6)
(a) This section may not be interpreted to insulate a local entity from a claim of misuse of assessment funds after the expiration of the period described in Subsection (2)(b).
(b)
(i) Except as provided in Subsection (6)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of assessment funds.
(ii) The limitation in Subsection (6)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

Amended by Chapter 314, 2021 General Session
Amended by Chapter 415, 2021 General Session

11-42-107 Accepting donation or contribution.

A local entity may accept any donation or contribution from any source for the payment or the making of an improvement in an assessment area.

Enacted by Chapter 329, 2007 General Session

11-42-108 Utility connections before paving or repaving is done -- Failure to make connection.

(1) The governing body may require:
(a) that before paving or repaving is done within an assessment area, all water, gas, sewer, and underground electric and telecommunications connections be made under the regulations and at the distances from the street mains to the line of the property abutting on the street to be paved or repaved that the local entity prescribes by resolution or ordinance; and
(b) the water company owning the water pipe main, the gas company owning the gas pipe main, and the electric or telecommunications company owning the underground electric or telecommunications facilities to make the connections.
(2) Upon the failure of a water company, gas company, or electric or telecommunications company to make a required connection:
(a) the local entity may cause the connection to be made; and
(b)
(i) the cost that the local entity incurs in making the connection shall be deducted from the amount of any debt the local entity owes to the company; and
(ii) the local entity may not pay a bill from the company until all the cost has been offset as provided in Subsection (2)(b)(i).

Enacted by Chapter 329, 2007 General Session

11-42-109 Severability.

A court's invalidation of any provision of this chapter may not be considered to affect the validity of any other provision of this chapter.

Enacted by Chapter 329, 2007 General Session

Part 2
Designating an Assessment Area

11-42-201 Resolution or ordinance designating an assessment area -- Classifications within an assessment area -- Preconditions to adoption of a resolution or ordinance.

(1)
(a) Subject to the requirements of this part, a governing body of a local entity intending to levy an assessment on property to pay some or all of the cost of providing improvements benefitting the property, performing operation and maintenance benefitting the property, or conducting economic promotion activities benefitting the property shall adopt a resolution or ordinance designating an assessment area.
(b) A designation resolution or designation ordinance described in Subsection (1)(a) may divide the assessment area into multiple classifications to allow the governing body to:
(i) levy a different level of assessment; or
(ii) use a different assessment method in each classification to reflect more fairly the benefits that property within the different classifications is expected to receive because of the proposed improvement, operation and maintenance, or economic promotion activities.
(c) The boundaries of a proposed assessment area:
(i) may include property that is not intended to be assessed; and

(ii) except for an assessment area within a public infrastructure district created under Title 17D, Chapter 4, Public Infrastructure District Act, may not be coextensive or substantially coterminous with the boundaries of the local entity.
(2) Before adopting a designation resolution or designation ordinance described in Subsection (1)(a), the governing body of the local entity shall:
(a) give notice as provided in Section 11-42-202;
(b) receive and consider all protests filed under Section 11-42-203; and
(c) hold a public hearing as provided in Section 11-42-204.

Amended by Chapter 314, 2021 General Session

11-42-202 Requirements applicable to a notice of a proposed assessment area designation -- Notice.
(1) Each notice required under Subsection 11-42-201(2)(a) shall:
(a) state that the local entity proposes to:
(i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;
(ii) provide an improvement to property within the proposed assessment area; and
(iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;
(b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;
(c) describe, in a general and reasonably accurate way, the improvements to be provided to the assessment area, including:
(i) the nature of the improvements; and
(ii) the location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;
(d) state the estimated cost of the improvements as determined by a project engineer;
(e) for the notice mailed under Subsection (4), state the estimated total assessment specific to the benefitted property for which the notice is mailed;
(f) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated benefits to the property from the improvements;
(g) if applicable, state that an unassessed benefitted government property will receive improvements for which the cost will be allocated proportionately to the remaining benefitted properties within the proposed assessment area and that a description of each unassessed benefitted government property is available for public review at the location or website described in Subsection (6);
(h) state the assessment method by which the governing body proposes to calculate the proposed assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:
(i) by directly billing a property owner; or
(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401;
(i) state:

(i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed;
(ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements; and
(iii) in large, boldface, and conspicuous type that a property owner must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed improvements, operation and maintenance costs, or economic promotion activities;
(j) state the date, time, and place of the public hearing required in Section 11-42-204;
(k) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:
(i) how the reserve fund will be funded and replenished; and
(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;
(l) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:
(i) estimates the total assessment to be levied against the particular parcel of property;
(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements;
(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body; and
(iv) if the governing body intends to enforce an assessment lien on the property in accordance with Subsection 11-42-502.1(2)(a)(ii)(C):
(A) appoints a trustee that satisfies the requirements described in Section 57-1-21;
(B) gives the trustee the power of sale;
(C) is binding on the property owner and all successors; and
(D) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;
(m) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:
(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;
(ii) a description of how the estimated assessment will be determined;
(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:
(A) in accordance with Section 11-42-406, current economic promotion activities; or
(B) current operation and maintenance costs;
(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and
(v) a statement of the maximum number of years over which the assessment will be levied for:
(A) operation and maintenance costs; or
(B) economic promotion activities;
(n) if the governing body intends to divide the proposed assessment area into classifications under Subsection 11-42-201(1)(b), include a description of the proposed classifications;

(o) if applicable, state the portion and value of the improvement that will be increased in size or capacity to serve property outside of the assessment area and how the increases will be financed; and
(p) state whether the improvements will be financed with a bond and, if so, the currently estimated interest rate and term of financing, subject to Subsection (2), for which the benefitted properties within the assessment area may be obligated.
(2) The estimated interest rate and term of financing in Subsection (1)(p) may not be interpreted as a limitation to the actual interest rate incurred or the actual term of financing as subject to the market rate at the time of the issuance of the bond.
(3) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:
(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;
(b) the estimated total amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and
(c) provisions for any improvements described in Subsection 11-42-102(25)(a)(ii).
(4) Each notice required under Subsection 11-42-201(2)(a) shall be published for the governing body's jurisdiction, as a class B notice under Section 63G-30-102, for at least 20 days, but not more than 35 days, before the day of the hearing required in Section 11-42-204.
(5)
(a) The local entity may record the version of the notice that is published or posted in accordance with Subsection (4) with the office of the county recorder, by legal description and tax identification number as identified in county records, against the property proposed to be assessed.
(b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year after the day on which the local entity records the notice if the local entity has failed to adopt the designation ordinance or resolution under Section 11-42-201 designating the assessment area for which the notice was recorded.
(6) A local entity shall make available on the local entity's website, or, if no website is available, at the local entity's place of business, the address and type of use of each unassessed benefitted government property described in Subsection (1)(g).
(7) If a governing body fails to provide actual or constructive notice under this section, the local entity may not assess a levy against a benefitted property omitted from the notice unless:
(a) the property owner gives written consent;
(b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did not object to the levy of the assessment before the final hearing of the board of equalization; or
(c) the benefitted property is conveyed to a subsequent purchaser and, before the date of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable, Subsection 11-42-207(1)(d)(i) are met.

Amended by Chapter 435, 2023 General Session

11-42-203 Protests.
(1) An owner of property that is proposed to be assessed and who does not want the property to be included in an assessment area may, within 60 days after the day of the hearing described in Subsection 11-42-204(1), file a written protest:
(a) against:
(i) the designation of the assessment area;

(ii) the inclusion of the owner's property in the proposed assessment area;
(iii) the proposed improvements to be acquired or constructed; or
(iv) if applicable, the inclusion of an unassessed benefitted government property, the benefit for which the other assessed properties will collectively pay; or
(b) protesting:
(i) whether the assessment meets the requirements of Section 11-42-409; or
(ii) any other aspect of the proposed designation of an assessment area.
(2) Each protest under Subsection (1) shall:
(a) describe or otherwise identify the property owned by the person filing the protest; and
(b) include the signature of the owner of the property.
(3) An owner may withdraw a protest at any time before the expiration of the 60-day period described in Subsection (1) by filing a written withdrawal with the governing body.
(4) If the governing body intends to assess property within the proposed assessment area by type of improvement or classification, as described in Section 11-42-201, and the governing body has clearly noticed its intent, the governing body shall:
(a) in determining whether adequate protests have been filed, aggregate the protests by the type of improvement or by classification; and
(b) apply to and calculate for each type of improvement or classification the threshold requirements of adequate protests.
(5) The failure of an owner of property within the proposed assessment area to file a timely written protest constitutes a waiver of any objection to:
(a) the designation of the assessment area;
(b) any improvement to be provided to property within the assessment area;
(c) the inclusion of the owner's property within the assessment area;
(d) the fact, but not amount, of benefit to the owner's property; and
(e) the inclusion of an unassessed benefitted government property in the assessment area.
(6) The local entity shall post the total and percentage of the written protests it has received on the local entity's website, or, if no website is available, at the local entity's place of business at least five days before the public meeting described in Section 11-42-206.

Amended by Chapter 396, 2015 General Session

11-42-204 Hearing.
(1) On the date and at the time and place specified in the notice under Section 11-42-202, the governing body shall hold a public hearing.
(2)
(a) The governing body:
(i) subject to Subsection (2)(a)(ii), may continue the public hearing from time to time to a fixed future date and time; and
(ii) may not hold a public hearing that is a continuance less than five days before the deadline for filing protests described in Section 11-42-203.
(b) The continuance of a public hearing does not restart or extend the protest period described in Subsection 11-42-203(1).
(3) At the public hearing, the governing body shall hear all:
(a) objections to the designation of the proposed assessment area or the improvements proposed to be provided in the assessment area;
(b) objections to whether the assessment will meet the requirements of Section 11-42-409;

(c) objections to the inclusion within the assessment area of an unassessed benefitted government property, the benefit for which the other assessed properties will collectively pay; and
(d) persons desiring to be heard.

Amended by Chapter 396, 2015 General Session

11-42-205 Unimproved property.
(1)
(a) Before a local entity may designate an assessment area in which more than 75% of the property proposed to be assessed consists of unimproved property, and designation of the assessment area would require that the local entity issue bonds, the local entity shall obtain:
(i) an appraisal:
(A) of the unimproved property;
(B) from an appraiser who is a member of the Appraisal Institute;
(C) addressed to the local entity or a financial institution; and
(D) verifying that the market value of the property, after completion of the proposed improvements, is at least three times the amount of the assessments proposed to be levied against the unimproved property; or
(ii) the most recent taxable value of the unimproved property from the assessor of the county in which the unimproved property is located, verifying that the taxable value of the property, after completion of the proposed improvements, is at least three times the amount of the assessments proposed to be levied against the unimproved property.
(b) If the owner of the unimproved property has entered into a construction loan acceptable to the local entity to finance the facilities to be constructed or installed on the unimproved property, the market value of the unimproved property, as determined under Subsection (1)(a)(i), may include, at the local entity's option:
(i) the principal amount of the construction loan; or
(ii) the value of the unimproved property with the facilities to be financed by the construction loan, as determined by an appraisal of:
(A) the unimproved property; and
(B) the facilities proposed to be constructed.
(2) With respect to the designation of an assessment area described in Subsection (1)(a), the local entity may require:
(a) financial information acceptable to the governing body with respect to the owner's ability to pay the proposed assessments;
(b) a financial institution's commitment securing, to the governing body's satisfaction, the owners' obligation to pay the proposed assessments; or
(c) a development plan, approved by a qualified, independent third party, describing the plan of development and the financial feasibility of the plan, taking into account growth trends, absorption studies, and other demographic information applicable to the unimproved property.
(3) Information that an owner provides to a local entity under Subsection (2)(a) is not a record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 388, 2011 General Session

11-42-206 Public meeting -- Adoption of a resolution or ordinance regarding a proposed assessment area -- Designation prohibited if adequate protests filed -- Recording of resolution or ordinance and notice of proposed assessment.

(1)

(a) After holding a public hearing under Section 11-42-204 and within 15 days after the day that the protest period expires in accordance with Subsection 11-42-203(1), the governing body shall:

(i) count the written protests filed or withdrawn in accordance with Section 11-42-203 and calculate whether adequate protests have been filed; and

(ii) hold a public meeting to announce the protest tally and whether adequate protests have been filed.

(b) If adequate protests are not filed, the governing body at the public meeting may adopt a resolution or ordinance:

(i) abandoning the proposal to designate an assessment area; or

(ii) designating an assessment area as described in the notice under Section 11-42-202 or with the changes made as authorized under Subsection (1)(d).

(c) If adequate protests are filed, the governing body at the public meeting:

(i) may not adopt a resolution or ordinance designating the assessment area; and

(ii) may adopt a resolution or ordinance to abandon the proposal to designate the assessment area.

(d)

(i) In the absence of adequate protests upon the expiration of the protest period and subject to Subsection (1)(d)(ii), the governing body may make changes to:

(A) an improvement proposed to be provided to the proposed assessment area; or

(B) the area or areas proposed to be included within the proposed assessment area.

(ii) A governing body may not make a change in accordance with Subsection (1)(d)(i) if the change would result in:

(A) a change in the nature of an improvement or reduction in the estimated amount of benefit to a benefitted property, whether in size, quality, or otherwise, than that described in the notice under Subsection 11-42-202(1)(c);

(B) an estimated total assessment to any benefitted property within the proposed assessment area that exceeds the estimate stated in the notice under Subsection 11-42-202(1)(e) or 11-42-202(1)(l); or

(C) a financing term that extends beyond the estimated term of financing described in Subsection 11-42-202(1)(p).

(2) If the notice under Section 11-42-202 indicates that the proposed assessment area is a voluntary assessment area, the governing body shall:

(a) delete from the proposed assessment area all property whose owners have not submitted an executed consent form consenting to inclusion of the owner's property in the proposed assessment area;

(b) delete all improvements that solely benefit the property whose owners did not consent; and

(c) determine whether to designate a voluntary assessment area, after considering:

(i) the extent of the improvements required to benefit property owners who consented;

(ii) the amount of the proposed assessment to be levied on the property within the voluntary assessment area;

(iii) the value of the benefits that property within the voluntary assessment area will receive from improvements proposed to be financed by assessments on the property; and

(iv) the extent to which the improvements may be scaled to benefit only the assessed properties.

(3)

(a) If the governing body adopts a designation resolution or ordinance designating an assessment area, the governing body shall, within 15 days after adopting the designation resolution or ordinance:

(i) record the original or certified copy of the designation resolution or ordinance in the office of the recorder of the county in which property within the assessment area is located; and

(ii) file with the recorder of the county in which property within the assessment area is located a notice of proposed assessment that:

(A) states that the local entity has designated an assessment area; and

(B) lists, by legal description and tax identification number as identified on county records, the property proposed to be assessed.

(b) If a governing body fails to comply with the requirements of Subsection (3)(a):

(i) the failure does not invalidate the designation of an assessment area; and

(ii) the local entity may not assess a levy against a subsequent purchaser of a benefitted property that lacked recorded notice unless:

(A) the subsequent purchaser gives written consent;

(B) the subsequent purchaser has actual notice of the assessment levy; or

(C) the subsequent purchaser purchased the property after a corrected notice was filed under Subsection (3)(c).

(c) The governing body may file a corrected notice under Subsection (3)(a)(i) or (ii) if it failed to comply with the date or other requirements for recording notice of the designation resolution or ordinance.

(d) If a governing body has filed a corrected notice under Subsection (3)(c), the local entity may not retroactively collect or adjust the amount of the levy to recapture lost funds for a levy that the local entity was prohibited from collecting, if applicable, under Subsection (3)(b).

(e) A local entity shall pay for a shortfall in assessment funds created under Subsection (3)(b) or (d) from the local entity's general fund and not by increasing or adjusting the assessment of any other property within the assessment area.

(4) After the adoption of a designation resolution or ordinance under Subsection (1)(b)(ii), the local entity may begin providing the specified improvements.

Amended by Chapter 396, 2015 General Session

11-42-207 Adding property to an assessment area.

(1) A local entity may add to a designated assessment area property to be benefitted and assessed if the governing body:

(a) finds that the inclusion of the property will not adversely affect the owners of property already in the assessment area;

(b) obtains from each owner of property to be added and benefitted a written consent that contains:

(i) the owner's consent to:

(A) the owner's property being added to the assessment area; and

(B) the making of the proposed improvements with respect to the owner's property;

(ii) if the assessment area to which the local entity seeks to add property is a voluntary assessment area, the items described in Subsection 11-42-202(1)(l);

(iii) the legal description and tax identification number of the property to be added; and

(iv) the owner's waiver of any right to protest the creation of the assessment area;
(c) amends the designation resolution or ordinance to include the added property; and
(d) within 15 days after amending the designation resolution or ordinance:
(i) records in the office of the recorder of the county in which the added property is located the original or certified copy of the amended designation resolution or ordinance containing the legal description and tax identification number as identified on county records of each additional parcel of property added to the assessment area and proposed to be assessed; and
(ii) gives written notice to the property owner of the inclusion of the owner's property in the assessment area.
(2)
(a) If a governing body fails to comply with the requirements of Subsection (1)(d)(i):
(i) the failure does not invalidate the amended designation resolution or ordinance; and
(ii) the local entity may not assess a levy against a subsequent purchaser of a benefitted property that lacked recorded notice unless:
(A) the subsequent purchaser gives written consent;
(B) the subsequent purchaser has actual notice of the assessment levy; or
(C) the subsequent purchaser purchased the property after a corrected notice was filed under Subsection (2)(c).
(b) The governing body may file a corrected notice under Subsection (1)(d)(i) if it failed to comply with the date or other requirements for recording notice of the amended designation resolution or ordinance.
(c) If a governing body has filed a corrected notice under Subsection (2)(b), the local entity may not retroactively collect or adjust the amount of the levy to recapture lost funds for a levy that the local entity was prohibited from collecting, if applicable, under Subsection (2)(a).
(d) A local entity shall pay for a shortfall in assessment funds created under Subsection (2)(a) or (c) from the local entity's general fund and not by increasing or adjusting the assessment of any other property within the assessment area.
(3) Except as provided in this section, a local entity may not add to an assessment area property not included in a notice under Section 11-42-202, or provide for making improvements that are not stated in the notice, unless the local entity gives notice as provided in Section 11-42-202 and holds a hearing as required under Section 11-42-204 as to the added property or additional improvements.

Amended by Chapter 85, 2016 General Session

11-42-208 Recording notice of deletion if property is deleted from an assessment area.

If, after adoption of a designation resolution or ordinance under Section 11-42-206, a local entity deletes property from the assessment area, the local entity shall record a notice of deletion in a form that includes the legal description and tax identification number of the property and otherwise complies with applicable recording statutes.

Enacted by Chapter 329, 2007 General Session

Part 3
Contracts for Improvements

11-42-301 Improvements made only under contract let to lowest responsive, responsible bidder -- Publishing notice -- Sealed bids -- Procedure -- Exceptions to contract requirement.

(1) Except as otherwise provided in this section, a local entity may make improvements in an assessment area only under contract let to the lowest responsive, responsible bidder for the kind of service, material, or form of construction that the local entity's governing body determines in compliance with any applicable local entity ordinances.
(2) A local entity may:
(a) divide improvements into parts;
(b)
(i) let separate contracts for each part; or
(ii) combine multiple parts into the same contract; and
(c) let a contract on a unit basis.
(3)
(a) A local entity may not let a contract until after providing notice as provided in Subsection (3)(b), as a class A notice under Section 63G-30-102, for at least 15 days before the date specified for receipt of bids.
(b) Each notice under Subsection (3)(a) shall notify contractors that the local entity will receive sealed bids at a specified time and place for the construction of the improvements.
(c) Notwithstanding a local entity's failure, through inadvertence or oversight, to publish the notice or to publish the notice within 15 days before the date specified for receipt of bids, the governing body may proceed to let a contract for the improvements if the local entity receives at least three sealed and bona fide bids from contractors by the time specified for the receipt of bids.
(d) A local entity may publish a notice required under this Subsection (3) at the same time as a notice under Section 11-42-202.
(4)
(a) A local entity may accept as a sealed bid a bid that is:
(i) manually sealed and submitted; or
(ii) electronically sealed and submitted.
(b) The governing body or project engineer shall, at the time specified in the notice under Subsection (3), open and examine the bids.
(c) In open session, the governing body:
(i) shall declare the bids; and
(ii) may reject any or all bids if the governing body considers the rejection to be for the public good.
(d) The local entity may award the contract to the lowest responsive, responsible bidder even if the price bid by that bidder exceeds the estimated costs as determined by the project engineer.
(e) A local entity may in any case:
(i) refuse to award a contract;
(ii) obtain new bids after giving a new notice under Subsection (3);
(iii) determine to abandon the assessment area; or
(iv) not make some of the improvements proposed to be made.
(5) A local entity is not required to let a contract as provided in this section for:
(a) an improvement or part of an improvement the cost of which or the making of which is donated or contributed;

(b) an improvement that consists of furnishing utility service or maintaining improvements;
(c) labor, materials, or equipment supplied by the local entity;
(d) the local entity's acquisition of completed or partially completed improvements in an assessment area;
(e) design, engineering, and inspection costs incurred with respect to the construction of improvements in an assessment area; or
(f) additional work performed in accordance with the terms of a contract duly let to the lowest responsive, responsible bidder.

(6) A local entity may itself furnish utility service and maintain improvements within an assessment area.

(7)
(a) A local entity may acquire completed or partially completed improvements in an assessment area, but may not pay an amount for those improvements that exceeds their fair market value.
(b) Upon the local entity's payment for completed or partially completed improvements, title to the improvements shall be conveyed to the local entity or another public agency.

(8) The provisions of Title 11, Chapter 39, Building Improvements and Public Works Projects, and Section 72-6-108 do not apply to improvements to be constructed in an assessment area.

Amended by Chapter 435, 2023 General Session

11-42-302 Contracts for work in an assessment area -- Sources of payment -- Payments as work progresses.

(1) A contract for work in an assessment area or for the purchase of property required to make an improvement in an assessment area may require the contract obligation to be paid from proceeds from the sale of assessment bonds, interim warrants, or bond anticipation notes.

(2)
(a) To the extent that a contract is not paid from the sources stated in Subsection (1), the local entity shall advance funds to pay the contract obligation from other legally available money, according to the requirements of the contract.
(b) A local entity may reimburse itself for an amount paid from its general fund or other funds under Subsection (2)(a) from:
(i) the proceeds from the sale of assessment bonds, interim warrants, or bond anticipation notes; or
(ii) assessments or improvement revenues that are not pledged for the payment of assessment bonds, interim warrants, or bond anticipation notes.
(c) A local entity may not reimburse itself for costs of making an improvement that are properly chargeable to the local entity or for which an assessment may not be levied.

(3)
(a) A contract for work in an assessment area may provide for payments to the contractor as the work progresses.
(b) If a contract provides for periodic payments:
(i) periodic payments may not exceed 90% of the value of the work done to the date of the payment, as determined by estimates of the project engineer; and
(ii) a final payment may be made only after the contractor has completed the work and the local entity has accepted the work.
(c) If a local entity retains money payable to a contractor as the work progresses, the local entity shall retain or withhold and release the money as provided in Section 13-8-5.

Enacted by Chapter 329, 2007 General Session

Part 4
Assessments

11-42-401 Levying an assessment -- Prerequisites -- Assessment list -- Partial payment allocation.

(1)

(a) If a local entity has designated an assessment area in accordance with Part 2, Designating an Assessment Area, the local entity may levy an assessment against property within that assessment area as provided in this part.

(b) If a local entity that is a municipality or county designates an assessment area in accordance with this chapter, the municipality or county may levy an assessment and collect the assessment in accordance with Subsection 11-42-202(1)(h)(i) or (ii).

(c) An assessment billed by a municipality or county in the same manner as a property tax and included on a property tax notice in accordance with Subsection 11-42-202(1)(h)(ii) is enforced in accordance with, constitutes a lien in accordance with, and is subject to other penalty provisions in accordance with this chapter.

(d) If a local entity includes an assessment on a property tax notice, the county treasurer shall on the property tax notice:

(i) clearly state that the assessment is for the improvement, operation and maintenance, or economic promotion activities provided by the local entity; and

(ii) itemize the assessment separate from any other tax, fee, charge, interest, or penalty that is included on the property tax notice in accordance with Section 59-2-1317.

(2) Before a governing body may adopt a resolution or ordinance levying an assessment against property within an assessment area:

(a) the governing body shall:

(i) subject to Subsection (3), prepare an assessment list designating:

(A) each parcel of property proposed to be assessed; and

(B) the amount of the assessment to be levied against the property;

(ii) appoint a board of equalization as provided in Section 11-42-403; and

(iii) give notice as provided in Section 11-42-402; and

(b) the board of equalization, appointed under Section 11-42-403, shall:

(i) hold hearings;

(ii) determine if the assessment for each benefitted property meets the requirements of Section 11-42-409;

(iii) make necessary corrections so that assessed properties are not assessed for benefits conferred exclusively outside of the assessment area;

(iv) make necessary corrections so that the benefitted properties are not charged for an increase in size or capacity of an improvement where the increased size or capacity is to serve property outside of the assessment area;

(v) make any corrections it considers appropriate to an assessment; and

(vi) report its findings to the governing body as provided in Section 11-42-403.

(3)

(a) The governing body of a local entity shall prepare the assessment list described in Subsection (2)(a)(i) at any time after:

(i) the governing body has determined the estimated or actual operation and maintenance costs, if the assessment is to pay operation and maintenance costs;
(ii) the governing body has determined the estimated or actual economic promotion costs described in Section 11-42-206, if the assessment is to pay for economic promotion activities; or
(iii) for any other assessment, the governing body has determined:
(A) the estimated or actual acquisition and construction costs of all proposed improvements within the assessment area, including overhead costs actually incurred and authorized reasonable contingencies;
(B) the estimated or actual property price for all property to be acquired to provide the proposed improvements; and
(C) the estimated reasonable cost of any work to be performed by the local entity.
(b) In addition to the requirements of Subsection (3)(a), the governing body of a local entity shall prepare the assessment list described in Subsection (2)(a)(i) before:
(i) the light service has commenced, if the assessment is to pay for light service; or
(ii) the park maintenance has commenced, if the assessment is to pay for park maintenance.
(4) A local entity may levy an assessment for some or all of the cost of improvements within an assessment area, including payment of:
(a) operation and maintenance costs of improvements constructed within the assessment area only to the extent the improvements provide benefits to the properties within the assessment area and in accordance with Section 11-42-409;
(b)
(i) if an outside entity furnishes utility services or maintains utility improvements, the actual cost that the local entity pays for utility services or for maintenance of improvements; or
(ii) if the local entity itself furnishes utility service or maintains improvements, for the actual costs that are reasonable, including reasonable administrative costs or reasonable costs for reimbursement of actual costs incurred by the local entity, for supplying the utility service or maintenance;
(c) the actual costs that are reasonable to supply labor, materials, or equipment in connection with improvements; and
(d)
(i) the actual costs that are reasonable for valid connection fees; or
(ii) the reasonable and generally applicable costs of locally provided utilities.
(5) A local entity may not levy an assessment for an amount donated or contributed for an improvement or part of an improvement or for anything other than the costs actually and reasonably incurred by the local entity in order to provide an improvement or conduct operation and maintenance or economic promotion activities.
(6) The validity of an otherwise valid assessment is not affected because the actual and reasonable cost of improvements exceeds the estimated cost.
(7)
(a) Subject to Subsection (7)(b), an assessment levied to pay for operation and maintenance costs may not be levied over a period of time exceeding five years beginning on the day on which the local entity adopts the assessment ordinance or assessment resolution for the operation and maintenance costs assessment.
(b) A local entity may levy an additional assessment described in Subsection (7)(a) in the assessment area designated for the assessment described in Subsection (7)(a) if, after the five-year period expires, the local entity:

(i) gives notice in accordance with Section 11-42-402 of the new five-year term of the assessment; and
(ii) complies with the applicable levy provisions of this part.

Amended by Chapter 353, 2016 General Session

11-42-402 Notice of assessment and board of equalization hearing.

Each notice required under Subsection 11-42-401(2)(a)(iii) shall:
(1) state:
(a) that an assessment list is completed and available for examination at the offices of the local entity;
(b) the total estimated or actual cost of the improvements;
(c) the amount of the total estimated or actual cost of the proposed improvements to be paid by the local entity;
(d) the amount of the assessment to be levied against benefitted property within the assessment area;
(e) the assessment method used to calculate the proposed assessment;
(f) the unit cost used to calculate the assessments shown on the assessment list, based on the assessment method used to calculate the proposed assessment; and
(g) the dates, times, and place of the board of equalization hearings under Subsection 11-42-401(2)(b)(i); and
(2) for at least 20, but not more than 35, days before the day on which the first hearing of the board of equalization is held, be published for the local entity's jurisdiction, as a class B notice under Section 63G-30-102.

Amended by Chapter 435, 2023 General Session

11-42-403 Board of equalization -- Hearings -- Corrections to proposed assessment list -- Report to governing body -- Appeal -- Board findings final -- Waiver of objections.

(1) After preparing an assessment list under Subsection 11-42-401(2)(a)(i), the governing body shall appoint a board of equalization.
(2) Each board of equalization under this section shall, at the option of the governing body, consist of:
(a) three or more members of the governing body;
(b)
(i) two members of the governing body; and
(ii)
(A) a representative of the treasurer's office of the local entity; or
(B) a representative of the office of the local entity's engineer or the project engineer; or
(c)
(i)
(A) one member of the governing body; or
(B) a representative of the governing body, whether or not a member of the governing body, appointed by the governing body;
(ii) a representative of the treasurer's office of the local entity; and
(iii) a representative of the office of the local entity's engineer or the project engineer.
(3)

(a) The board of equalization shall hold hearings on at least three consecutive days for at least one hour per day between 9 a.m. and 9 p.m., as specified in the notice under Section 11-42-402.
(b) The board of equalization may continue a hearing from time to time to a specific place and a specific hour and day until the board's work is completed.
(c) At each hearing, the board of equalization shall hear arguments from any person who claims to be aggrieved, including arguments relating to:
(i) the amount of benefits accruing to a tract, block, lot, or parcel of property in the assessment area; or
(ii) the amount of the proposed assessment against the tract, block, lot, or parcel.
(4)
(a) After the hearings under Subsection (3) are completed, the board of equalization shall:
(i) consider all facts and arguments presented at the hearings; and
(ii) make any corrections to the proposed assessment list necessary to ensure that the assessment meets the requirements of Section 11-42-409.
(b) A correction under Subsection (4)(a)(ii) may:
(i) eliminate one or more pieces of property from the assessment list; or
(ii) increase or decrease the amount of the assessment proposed to be levied against a parcel of property.
(c)
(i) If the board of equalization makes a correction under Subsection (4)(a)(ii) that results in an increase of a proposed assessment, the board shall, before approving a corrected assessment list:
(A) give notice as provided in Subsection (4)(c)(ii);
(B) hold a hearing at which the owner whose assessment is proposed to be increased may appear and object, in person or in writing, to the proposed increase; and
(C) after holding a hearing, make any further corrections that the board considers necessary to make the proposed increased assessment meet the requirements of Section 11-42-409.
(ii) Each notice required under Subsection (4)(c)(i)(A) shall:
(A) state:
(I) that the property owner's assessment is proposed to be increased;
(II) the amount of the proposed increased assessment;
(III) that a hearing will be held at which the owner may appear and object to the increase; and
(IV) the date, time, and place of the hearing; and
(B) be mailed, at least 15 days before the date of the hearing, to each owner of property as to which the assessment is proposed to be increased at the property owner's mailing address.
(5)
(a) After the board of equalization has held all hearings required by this section and has made all corrections the board considers necessary to comply with Section 11-42-409, the board shall report to the governing body its findings that:
(i) each assessed property within the assessment area will be assessed in a manner that meets the requirements of Section 11-42-409; and
(ii) except as provided in Subsection 11-42-409(5), no parcel of property on the assessment list will bear more than its equitable portion of the actual costs that are reasonable of the improvements benefitting the property in accordance with Section 11-42-409.

(b) The board of equalization shall, within 10 days after submitting its report to the governing body, mail a copy of the board's final report to each property owner who objected at the board hearings to the assessment proposed to be levied against the property owner's property at the property owner's mailing address.

(6)

(a) If a board of equalization includes members other than the governing body of the local entity, a property owner may appeal a decision of the board to the governing body by filing with the governing body a written notice of appeal within 15 days after the board's final report is mailed to property owners under Subsection (5)(b).

(b) Except as provided in Subsection (6)(a), no appeal may be taken from the findings of a board of equalization.

(7) The findings of a board of equalization are final:

(a) when approved by the governing body, if no appeal is allowed under Subsection (6); or

(b) after the time for appeal under Subsection (6) is passed, if an appeal is allowed under that subsection.

(8)

(a) If a governing body has levied an assessment to pay operation and maintenance costs within an assessment area, the governing body may periodically appoint a new board of equalization to review assessments for operation and maintenance costs.

(b) Each board of equalization appointed under Subsection (8)(a) shall comply with the requirements of Subsections (3) through (6).

(9)

(a) An owner who fails to make an objection setting forth all claims, in accordance with Subsection (9)(b), to the board of equalization waives all objections, except as provided in Subsection (10), to the levy.

(b) An owner may set forth a claim and object to a levy by:

(i) appearing before the board of equalization in person or through a designated agent; or

(ii) submitting the objection in writing if the objection is received by the board of equalization before:

(A) the first hearing as described in Subsection (3)(a); or

(B) if applicable to the owner, a subsequent hearing described in Subsection (4)(c)(i)(B).

(10) The provisions of Subsection (9)(a) do not prohibit an owner's objection that the governing body failed to obtain jurisdiction to order that the improvements which the assessment is intended to pay be provided to the assessment area.

(11)

(a) This section may not be interpreted to insulate a local entity from a claim of misuse of assessment funds.

(b)

(i) Except as provided in Subsection (11)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of assessment funds.

(ii) The limitation in Subsection (11)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

Amended by Chapter 396, 2015 General Session

11-42-404 Adoption of a resolution or ordinance levying an assessment -- Notice of the adoption -- Effective date of resolution or ordinance -- Notice of assessment interest.

(1)

(a) After receiving a final report from a board of equalization under Subsection 11-42-403(5) or, if applicable, after the time for filing an appeal under Subsection 11-42-403(6) has passed, the governing body may adopt a resolution or ordinance levying an assessment against benefitted property within the assessment area designated in accordance with Part 2, Designating an Assessment Area.
(b) Except as provided in Subsection (1)(c), a local entity may not levy more than one assessment under this chapter for an assessment area designated in accordance with Part 2, Designating an Assessment Area.
(c) A local entity may levy more than one assessment in an assessment area designated in accordance with Part 2, Designating an Assessment Area, if:
(i) the local entity has adopted a designation resolution or designation ordinance for each assessment in accordance with Section 11-42-201; and
(ii) the assessment is levied to pay:
(A) subject to Section 11-42-401, operation and maintenance costs;
(B) subject to Section 11-42-406, the costs of economic promotion activities; or
(C) the costs of environmental remediation activities.
(d) An assessment resolution or ordinance adopted under Subsection (1)(a):
(i) need not describe each tract, block, lot, part of block or lot, or parcel of property to be assessed;
(ii) need not include the legal description or tax identification number of the parcels of property assessed in the assessment area; and
(iii) is adequate for purposes of identifying the property to be assessed within the assessment area if the assessment resolution or ordinance incorporates by reference the corrected assessment list that describes the property assessed by legal description and tax identification number.
(2)
(a) A local entity that adopts an assessment resolution or ordinance shall give notice of the adoption for the local entity's jurisdiction, as a class A notice under Section 63G-30-102, for at least 21 days.
(b) No other publication or posting of the resolution or ordinance is required.
(3) Notwithstanding any other statutory provision regarding the effective date of a resolution or ordinance, each assessment resolution or ordinance takes effect:
(a) on the date of publication or posting of the notice under Subsection (2); or
(b) at a later date provided in the resolution or ordinance.
(4)
(a) The governing body of each local entity that has adopted an assessment resolution or ordinance under Subsection (1) shall, within five days after the day on which the 25-day prepayment period under Subsection 11-42-411(6) has passed, file a notice of assessment interest with the recorder of the county in which the assessed property is located.
(b) Each notice of assessment interest under Subsection (4)(a) shall:
(i) state that the local entity has an assessment interest in the assessed property;
(ii) if the assessment is to pay operation and maintenance costs or for economic promotion activities, state the maximum number of years over which an assessment will be payable; and
(iii) describe the property assessed by legal description and tax identification number.
(c) A local entity's failure to file a notice of assessment interest under this Subsection (4) has no affect on the validity of an assessment levied under an assessment resolution or ordinance adopted under Subsection (1).

Amended by Chapter 435, 2023 General Session

11-42-405 Limit on amount of assessment -- Costs required to be paid by the local entity.

(1) An assessment levied within an assessment area may not, in the aggregate, exceed the sum of:

(a) the contract price or estimated contract price;

(b) the acquisition price of improvements;

(c) the reasonable cost of:

(i)

(A) utility services, maintenance, and operation, to the extent permitted by Subsection 11-42-401(4); and

(B) labor, materials, or equipment supplied by the local entity;

(ii) economic promotion activities; or

(iii) operation and maintenance costs;

(d) the price or estimated price of purchasing property;

(e) any connection fees;

(f) estimated interest on interim warrants and bond anticipation notes issued with respect to an assessment area;

(g) the capitalized interest on each assessment bond;

(h) overhead costs not to exceed 15% of the sum of Subsections (1)(a), (b), (c), and (e);

(i) an amount for contingencies of not more than 10% of the sum of Subsections (1)(a) and (c), if the assessment is levied before construction of the improvements in the assessment area is completed;

(j) an amount sufficient to fund a reserve fund, if the governing body creates and funds a reserve fund as provided in Section 11-42-702;

(k) 1/2 the cost of grading changes as provided in Section 11-42-407; and

(l) incidental costs incurred by a property owner in order to satisfy the local entity's requirements for inclusion in a voluntary assessment area, if applicable.

(2) Each local entity providing an improvement in an assessment area shall pay, from improvement revenues not pledged to the payment of bonds and from any other legally available money:

(a) overhead costs for which an assessment cannot be levied;

(b) the costs of providing an improvement for which an assessment was not levied, if the assessment is levied before construction of the improvement in the assessment area is completed; and

(c) the acquisition and constructions costs of an improvement for the benefit of property against which an assessment may not be levied.

Amended by Chapter 246, 2013 General Session

11-42-406 Assessment for economic promotion activities -- Duration -- Reporting.

(1)

(a) If the governing body of a local entity designates an assessment area in accordance with Part 2, Designating an Assessment Area, for economic promotion activities, the governing body:

(i) subject to Subsection (1)(a)(ii), may levy an assessment to pay for economic promotion activities by adopting an assessment resolution or ordinance in accordance with Section 11-42-404; and

(ii) except as provided in Subsection (1)(b), may not levy the assessment for a period longer than five years.

(b) A governing body may levy additional assessments to pay for economic promotion activities after the five-year period described in Subsection (1)(a)(ii) if the governing body:

(i) designates a new assessment area in accordance with Part 2, Designating an Assessment Area;

(ii) adopts a new assessment resolution or ordinance in accordance with Section 11-42-404;

(iii) limits each additional assessment to a five-year period; and

(iv) complies with Subsections (1)(b)(i) through (iii) for each additional assessment.

(2) If a local entity designates an assessment area for economic promotion activities, the local entity:

(a) shall spend on economic promotion activities at least 70% of the money generated from an assessment levied in the assessment area and from improvement revenues;

(b) may not spend more than 30% of the money generated from the assessment levied in the assessment area and from improvement revenues on administrative costs, including salaries, benefits, rent, travel, and costs incidental to publications; and

(c) in accordance with Subsection (3), shall publish a detailed report including the following:

(i) an account of money deposited into the assessment fund described in Section 11-42-412;

(ii) an account of expenditures from the fund described in Section 11-42-412; and

(iii) a detailed account of whether each expenditure described in Subsection (2)(c)(ii) was made for economic promotion activities described in Subsection (2)(a) or for administrative costs described in Subsection (2)(b).

(3) A local entity shall publish a report required in Subsection (2)(c):

(a) on:

(i) if available, the local entity's public web site; and

(ii) if the local entity is not a county or municipality, on the public web site of any county or municipality in which the local entity has jurisdiction;

(b)

(i) within one year after the day on which the local entity adopts a new assessment resolution or ordinance for economic promotion activities; and

(ii) each subsequent year that the economic promotion activities levy is assessed by updating the information described in Subsection (2)(c); and

(c) for six months on a web site described in Subsection (3)(a) after the day on which the report is initially published under Subsection (3)(b) or updated under Subsection (3)(b)(ii).

Amended by Chapter 396, 2015 General Session

11-42-407 Improvements that change the grade of an existing street, alley, or sidewalk -- Improvements that improve an intersection or spaces opposite an alley.

(1) If an improvement in an assessment area involves changing the grade of an existing street, alley, or sidewalk, the local entity shall pay half of the cost of bringing the street, alley, or sidewalk to the established grade.

(2) If an improvement in an assessment area improves an intersection of streets or spaces opposite an alley, the local entity may levy an assessment against the other properties to be assessed in the assessment area for the cost of the improvement.

Enacted by Chapter 329, 2007 General Session

11-42-408 Assessment against government land prohibited -- Exception.

(1)

(a) Except as provided in Subsection (2), a local entity may not levy an assessment against property owned by the federal government or a public agency, even if the property benefits from the improvement.

(b) Notwithstanding Subsection (1)(a), a public agency may contract with a local entity:

(i) for the local entity to provide an improvement to property owned by the public agency; and

(ii) to pay for the improvement provided by the local entity.

(c) Nothing in this section may be construed to prevent a local entity from imposing on and collecting from a public agency, or a public agency from paying, a reasonable charge for a service rendered or material supplied by the local entity to the public agency, including a charge for water, sewer, or lighting service.

(2) Notwithstanding Subsection (1):

(a) a local entity may continue to levy and enforce an assessment against property acquired by a public agency within an assessment area if the acquisition occurred after the assessment area was designated; and

(b) property that is subject to an assessment lien at the time it is acquired by a public agency continues to be subject to the lien and to enforcement of the lien if the assessment and interest on the assessment are not paid when due.

Amended by Chapter 470, 2017 General Session

11-42-409 Assessment requirements and prohibitions -- Economic promotion activities assessment requirements and prohibitions -- Allocation for unassessed benefitted government property.

(1)

(a) Each local entity that levies an assessment under this chapter:

(i) except for an appropriate allocation for an unassessed benefitted government property, may not assess a property for more than the amount that the property benefits by the improvement, operation and maintenance, or economic promotion activities;

(ii) may levy an assessment only for the actual costs that are reasonable; and

(iii) shall levy an assessment on a benefitted property in an amount that reflects an equitable portion, subject to Subsection (1)(b), of the benefit the property will receive from an improvement, operation and maintenance, or economic promotion activities for which the assessment is levied.

(b) The local entity, in accounting for a property's benefit or portion of a benefit received from an improvement, operation and maintenance, or economic promotion activities, shall consider:

(i) any benefit that can be directly identified with the property; and

(ii) the property's roughly equivalent portion of the benefit that is collectively shared by all the assessed properties in the entire assessment area or classification.

(c) The validity of an otherwise valid assessment is not affected by the fact that the benefit to the property from the improvement does not increase the fair market value of the property.

(2) Subject to Subsection (4), the assessment method a governing body uses to calculate an assessment may be according to frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, or any combination of these methods, or any other method as the governing body considers appropriate to comply with Subsections (1)(a) and (b).

(3) A local entity that levies an assessment under this chapter for an improvement:

(a) shall:
(i)
(A) levy the assessment on each block, lot, tract, or parcel of property that benefits from the improvement; and
(B) to whatever depth, including full depth, on the parcel of property that the governing body determines but that still complies with Subsections (1)(a) and (b);
(ii) make an allowance for each corner lot receiving the same improvement on both sides so that the property is not assessed at the full rate on both sides; and
(iii) pay for any increase in size or capacity that serves property outside of the assessment area with funds other than those levied by an assessment;
(b) may:
(i) use different methods for different improvements in an assessment area;
(ii) assess different amounts in different classifications, even when using the same method, if acquisition or construction costs differ from classification to classification;
(iii) allocate a corner lot allowance under Subsection (3)(a)(ii) to all other benefitted property within the assessment area by increasing the assessment levied against the other assessed property in the same proportion as the improvement is assessed;
(iv) to comply with Subsection (1)(a), levy an assessment within classifications; and
(v) assess property to replace improvements that are approaching or have exceeded their useful life or to increase the level of service of an existing improvement; and
(c) may not:
(i) consider the costs of the additional size or capacity of an improvement that will be increased in size or capacity to serve property outside of the assessment area when calculating an assessment or determining an assessment method; or
(ii) except for in a voluntary assessment area or as provided in Subsection (3)(b)(v), assess a property for an improvement that would duplicate or provide a reasonably similar service that is already provided to the property.
(4) A local entity that levies an assessment under this chapter for economic promotion activities:
(a) shall:
(i) subject to Section 11-42-408, levy the assessment on each benefitted property; and
(ii) subject to Subsection (4)(d), use an assessment method that, when applied to a benefitted property, meets the requirements of Subsection (1)(a);
(b) may:
(i) levy an assessment only on commercial or industrial real property; and
(ii) create classifications based on property use, or other distinguishing factors, to determine the estimated benefit to the assessed property;
(c) subject to Subsection (4)(d), may rely on, in addition to the assessment methods described in Subsection (2), estimated benefits from an increase in:
(i) office lease rates;
(ii) retail sales rates;
(iii) customer base;
(iv) public perception;
(v) hotel room rates and occupancy levels;
(vi) property values;
(vii) the commercial environment from enhanced services;
(viii) another articulable method of estimating benefits; or
(ix) a combination of the methods described in Subsections (4)(c)(i) through (viii); and

(d) may not use taxable value, fair market value, or any other assessment method based on the value of the property as the sole assessment method.

(5) A local entity may levy an assessment that would otherwise violate a provision of this chapter if the owners of all property to be assessed voluntarily enter into a written agreement with the local entity consenting to the assessment.

(6) A local entity may allocate the cost of a benefit received by an unassessed benefitted government property to all other benefitted property within the assessment area by increasing the assessment levied against the other assessed property in the same proportion as the improvement, operation and maintenance, or economic promotion activities are assessed.

Amended by Chapter 127, 2017 General Session

11-42-410 Amending an assessment resolution or ordinance.

(1) A governing body may adopt a resolution or ordinance amending the original assessment resolution or ordinance adopted under Section 11-42-404 to:

(a) correct a deficiency, omission, error, or mistake:

(i) with respect to:

(A) the total cost of an improvement;

(B) operation and maintenance costs; or

(C) the cost of economic promotion activities; or

(ii) that results in a tract, lot, block, or parcel not being fully assessed or assessed in an incorrect amount;

(b) reallocate or adjust assessments under the original assessment resolution or ordinance for operation and maintenance costs or the costs of economic promotion activities;

(c) reallocate or adjust assessments under the original assessment resolution or ordinance; or

(d) reduce an assessment as a result of the issuance of refunding bonds.

(2) If an amendment under Subsection (1)(a) or (c) results in an increase in an assessment for any property owner, the governing body shall comply with the notice requirements of Section 11-42-402, unless the owner waives notice as provided in Section 11-42-104.

Amended by Chapter 246, 2009 General Session

11-42-411 Installment payment of assessments.

(1)

(a) In an assessment resolution or ordinance, the governing body may, subject to Subsection (1)(b), provide that some or all of the assessment be paid in installments over a period:

(i) not to exceed 20 years from the effective date of the resolution or ordinance, except as provided in Subsection (1)(a)(ii); or

(ii) not to exceed 30 years from the effective date of the resolution, for a resolution adopted by:

(A) a development authority; or

(B) a public infrastructure district created by a development authority under Title 17D, Chapter 4, Public Infrastructure District Act.

(b) If an assessment resolution or ordinance provides that some or all of the assessment be paid in installments for a period exceeding 10 years from the effective date of the resolution or ordinance, the governing body:

(i) shall make a determination that:

(A) the improvement for which the assessment is made has a reasonable useful life for the full period during which installments are to be paid; or

(B) it would be in the best interests of the local entity and the property owners for installments to be paid for more than 10 years; and

(ii) may provide in the resolution or ordinance that no assessment is payable during some or all of the period ending three years after the effective date of the resolution or ordinance.

(2) An assessment resolution or ordinance that provides for the assessment to be paid in installments may provide that the unpaid balance be paid over the period of time that installments are payable:

(a) in substantially equal installments of principal; or

(b) in substantially equal installments of principal and interest.

(3)

(a) Each assessment resolution or ordinance that provides for the assessment to be paid in installments shall, subject to Subsections (3)(b) and (c), provide that the unpaid balance of the assessment bear interest at a fixed rate, variable rate, or a combination of fixed and variable rates, as determined by the governing body, from the effective date of the resolution or ordinance or another date specified in the resolution or ordinance.

(b) If the assessment is for operation and maintenance costs or for the costs of economic promotion activities:

(i) a local entity may charge interest only from the date each installment is due; and

(ii) the first installment of an assessment shall be due 15 days after the effective date of the assessment resolution or ordinance.

(c) If an assessment resolution or ordinance provides for the unpaid balance of the assessment to bear interest at a variable rate, the assessment resolution or ordinance shall specify:

(i) the basis upon which the rate is to be determined from time to time;

(ii) the manner in which and schedule upon which the rate is to be adjusted; and

(iii) a maximum rate that the assessment may bear.

(4) Interest payable on assessments may include:

(a) interest on assessment bonds;

(b) ongoing local entity costs incurred for administration of the assessment area; and

(c) any costs incurred with respect to:

(i) securing a letter of credit or other instrument to secure payment or repurchase of bonds; or

(ii) retaining a marketing agent or an indexing agent.

(5) Interest imposed in an assessment resolution or ordinance shall be paid in addition to the amount of each installment annually or at more frequent intervals as provided in the assessment resolution or ordinance.

(6)

(a) Except for an assessment for operation and maintenance costs or for the costs of economic promotion activities, a property owner may pay some or all of the entire assessment without interest if paid within 25 days after the assessment resolution or ordinance takes effect.

(b) After the 25-day period stated in Subsection (6)(a), a property owner may at any time prepay some or all of the assessment levied against the owner's property.

(c) A local entity may require a prepayment of an installment to include:

(i) an amount equal to the interest that would accrue on the assessment to the next date on which interest is payable on bonds issued in anticipation of the collection of the assessment; and

(ii) the amount necessary, in the governing body's opinion or the opinion of the officer designated by the governing body, to assure the availability of money to pay:

(A) interest that becomes due and payable on those bonds; and

(B) any premiums that become payable on bonds that are called in order to use the money from the prepaid assessment installment.

Amended by Chapter 314, 2021 General Session
Amended by Chapter 415, 2021 General Session

11-42-412 Assessment fund -- Uses of money in the fund -- Treasurer's duties with respect to the fund.

(1) The governing body of each local entity that levies an assessment under this part on benefitted property within an assessment area shall establish an assessment fund.
(2) The governing body shall:
(a) deposit into the assessment fund all money paid to the local entity from assessments and interest on assessments; and
(b) deposit into a separate account in the assessment fund all money paid to the local entity from improvement revenues.
(3) Money in an assessment fund may be expended only for paying:
(a) the local entity's costs and expenses of making, operating, and maintaining improvements to the extent permitted under Section 11-42-415;
(b) operation and maintenance costs;
(c) economic promotion activities;
(d) local entity obligations; and
(e) costs that the local entity incurs with respect to:
(i) administration of the assessment area; or
(ii) obtaining a letter of credit or other instrument or fund to secure the payment of assessment bonds.
(4) The treasurer of the local entity:
(a) shall:
(i) subject to Subsection (4)(b)(i), be the custodian of the assessment fund;
(ii) keep the assessment fund intact and separate from all other local entity funds and money;
(iii) invest money in an assessment fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
(iv) keep on deposit in the assessment fund any interest received from the investment of money in the assessment fund and use the interest exclusively for the purposes for which the assessment fund was established; and
(b) may:
(i) arrange for the assessment fund to be held by a trustee bank on behalf of the local entity; and
(ii) pay money out of the assessment fund only for the purposes listed in Subsection (3).
(5) When all local entity obligations have been paid or legally considered paid in full, the treasurer of the local entity shall transfer all money remaining in the assessment fund as provided in Section 11-42-414.

Enacted by Chapter 329, 2007 General Session

11-42-413 Surplus assessments -- Payment of bonds -- Rebate of assessment if improvements abandoned.

(1) As used in this section:
(a) "Current owner" means the owner of property at the time a rebate under this section is paid.

(b) "Last-known address" means the last address of an owner of property within an assessment area according to the last completed real property assessment roll of the county in which the property is located.
(c) "Net assessment" means the amount of an assessment after subtracting:
(i) the amount required to pay for any improvements that have been made prior to their being abandoned; and
(ii) any damages or costs related to an abandonment of improvements.
(2)
(a) If the total cost of completed and accepted improvements is less than the total amount of assessments levied for those improvements, the local entity shall place the surplus in the assessment fund.
(b) If a local entity issues assessment bonds before a surplus under Subsection (2)(a) is determined, the local entity shall hold the surplus in the assessment fund and use the surplus for the payment of the bonds, interest, and any penalties and costs.
(3) If a local entity abandons improvements in an assessment area before the improvements have been started or, if started, before they have been completed and accepted but after an assessment has been levied, the local entity shall rebate the net assessment to the current owner.

Enacted by Chapter 329, 2007 General Session

11-42-414 Remaining interest and other money in assessment fund to be transferred to the guaranty fund or the local entity's general fund.

The treasurer of each local entity that collects interest from the investment of an assessment fund or that receives penalties, costs, and other amounts for the benefit and credit of an assessment that remain after all local entity obligations are paid in full and cancelled shall transfer the remaining amount to:
(1) the guaranty fund, if required by bond covenants; or
(2) the local entity's general fund.

Enacted by Chapter 329, 2007 General Session

11-42-415 Pledge and use of improvement revenues -- Reducing installment payments -- Notice -- Overpayment of installment.

(1) A local entity may, by resolution adopted by the governing body, provide for the pledge and use of any improvement revenues to pay:
(a) some or all of the costs and expenses of making, operating, and maintaining improvements, to the extent permitted under this chapter; and
(b) some or all of the principal of and interest on assessment bonds, interim warrants, and bond anticipation notes issued against the assessment area to make improvements within the assessment area.
(2)
(a) If the governing body adopts a resolution under Subsection (1), the local entity:
(i) may:
(A) provide for assessments to be levied in the full amount of the estimated cost of the improvements, as determined by a project engineer;

(B) agree to use installment payments from assessments to pay the costs of the improvements and to pay principal of and interest on any assessment bonds, interim warrants, and bond anticipation notes when due; and
(C) reduce installment payments, as provided in Subsection (2)(a)(ii), if the local entity receives net improvement revenues and pledges them to pay operation and maintenance costs of the improvements and to pay principal of and interest on assessment bonds, interim warrants, or bond anticipation notes; and
(ii) shall authorize a local entity official to:
(A) determine on each installment payment date the amount of net improvement revenues that the local entity has received since the last installment payment date; and
(B) reduce the amount of the installment payment due on the next succeeding installment payment date by an amount that is no greater than the amount of the net improvement revenues described in Subsection (2)(a)(ii)(A).
(b) A local entity may not reduce installment payments under Subsection (2)(a)(ii) if:
(i) the reduction exceeds the amount of net improvement revenues that have been pledged to pay:
(A) operation and maintenance costs of the improvements; and
(B) principal of and interest on assessment bonds, interim warrants, and bond anticipation notes; or
(ii) after the reduction, the sum of the assessment installment payments and the net improvement revenues are insufficient to pay:
(A) operation and maintenance costs of the improvements; and
(B) principal of and interest on assessment bonds, interim warrants, and bond anticipation notes.
(c) The local entity shall require that each reduction of installment payments be made so that the assessments levied against each assessed property receive a proportionate share of the reduction.
(d) A reduction under Subsection (2)(a)(ii) does not apply to an assessment or interest on an assessment that has been paid.
(3)
(a) Not more than 14 days after making a determination under Subsection (2)(a)(ii) to reduce an installment payment, the local entity's governing body shall mail notice of the reduction to each owner of property within the assessment area at the property owner's mailing address.
(b) The governing body may include the notice required under Subsection (3)(a) with or in any other notice regarding the payment of assessments and interest on assessments that the governing body sends to owners.
(4)
(a) If an owner of assessed property pays more than the amount of the reduced installment payment on the installment payment date after a notice under Subsection (3) is mailed, the local entity may, by following the procedure under Subsection (3), provide additional notice to the owner that:
(i) the owner has overpaid the assessment installment payment; and
(ii) the local entity will:
(A) credit the amount of the overpayment against the next installment payment due; or
(B) if no further installment payment is due, refund the amount of the overpayment upon receipt of a written refund request from the owner.
(b) If a local entity receives an overpayment of an installment payment, it shall:
(i) credit the amount of the overpayment against the next installment payment due; or

(ii) refund the amount of the overpayment to the owner if:
(A) no further installment payment is due; and
(B) the owner submits a written request for a refund.
(c) A local entity is not required to pay interest on an overpayment that it holds.

Enacted by Chapter 329, 2007 General Session

11-42-416 Validation of prior assessment proceedings.
(1) Subject to Subsection (2), all proceedings taken before April 30, 2007 related to the levy of assessments are validated, ratified, and confirmed, and the assessments are declared to be legal and valid assessments.
(2) Nothing in this section may be construed to affect the validity of an assessment whose legality is being contested on April 30, 2007.
(3)
(a) This chapter applies to all assessments levied after April 30, 2007, even though proceedings were taken before that date under provisions of the law then in effect but repealed or modified on or after that date.
(b) Proceedings taken as described in Subsection (3)(a) under the law in effect before April 30, 2007 are validated, ratified, and confirmed, except to the extent that those proceedings are the subject of an action pending on April 30, 2007 challenging the proceedings.

Enacted by Chapter 329, 2007 General Session

Part 5
Assessment Liens

11-42-501 Assessment constitutes a lien -- Characteristics of an assessment lien.
(1) If the governing body of the local entity that adopts an assessment resolution or ordinance records the assessment resolution or ordinance and the notice of proposed assessment, in accordance with Section 11-42-206, in the office of the recorder of the county in which the assessed property is located, each assessment levied under this chapter, including any installment of an assessment, interest, and any penalties and costs of collection, constitutes a political subdivision lien, as that term is defined in Section 11-60-102, against the property assessed, in accordance with Title 11, Chapter 60, Political Subdivision Lien Authority, and subject to the provisions of this chapter, as of the effective date of the assessment resolution or ordinance.
(2) A lien under this section:
(a) is superior to the lien of a trust deed, mortgage, mechanic's or materialman's lien, or other encumbrances;
(b) has the same priority as, but is separate and distinct from, a lien for general property taxes;
(c) applies without interruption, change in priority, or alteration in any manner to any reduced payment obligations; and
(d) continues until the assessments, reduced payment obligations, and any interest, penalties, and costs are paid, despite:
(i) a sale of the property for or on account of a delinquent general property tax, special tax, or other assessment; or

(ii) the issuance of a tax deed, an assignment of interest by the county, or a sheriff's certificate of sale or deed.

Amended by Chapter 197, 2018 General Session

11-42-502 Enforcement of an assessment lien -- Pre-May 10, 2016, procedure.

(1) The provisions of this section apply to any property that is:

(a)

(i) located within the boundaries of an assessment area; and

(ii) the subject of a foreclosure procedure initiated before May 10, 2016, for an assessment or an installment of an assessment that is not paid when due; or

(b) located within the boundaries of an assessment area for which the local entity issued an assessment bond or a refunding assessment bond:

(i) before May 10, 2016;

(ii) that has not reached final maturity; and

(iii) that is not refinanced on or after May 10, 2016.

(2)

(a) If an assessment or an installment of an assessment is not paid when due in a given year:

(i) subject to Subsection (2)(b):

(A) by September 15, the governing body of the local entity that levies the assessment shall certify any unpaid amount calculated as of the date of certification to the treasurer of the county in which the assessed property is located; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year; and

(ii) the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs, in the manner provided:

(A) by resolution or ordinance of the local entity;

(B) in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes; or

(C) in Title 57, Chapter 1, Conveyances, as though the property were the subject of a trust deed in favor of the local entity.

(b)

(i) The certification of the unpaid amount described in Subsection (2)(a)(i):

(A) has no effect on the amount due plus interest, penalties, and costs or other requirements of the assessment as described in the assessment resolution or ordinance; and

(B) is required to provide for the ability of the local entity to collect the delinquent assessment by the sale of property in a sale for delinquent general property taxes and tax notice charges, as that term is defined in Section 59-2-1301.5, in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes.

(ii) A local entity's failure to certify an amount in accordance with Subsection (2)(a)(i) or a county treasurer's failure to include the certified amount on the property tax notice is not a defense to and does not delay, prohibit, or diminish a local entity's lien rights or authority to pursue any enforcement remedy, other than a delay in the local entity's ability to collect the delinquent assessment as described in Subsection (2)(b)(i)(B).

(c) Nothing in Subsection (2)(a)(i) or in Title 11, Chapter 60, Political Subdivision Lien Authority, prohibits or diminishes a local entity's authority to pursue any remedy in Subsection (2)(a)(ii).

(3) Except as otherwise provided in this chapter, each tax sale under Subsection (2)(a)(ii)(B) shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale were for the sale of property for delinquent general property taxes.
(4)
(a) In a foreclosure under Subsection (2)(a)(ii)(C):
(i) the local entity may bid at the sale;
(ii) the local entity's governing body shall designate a trustee satisfying the requirements of Section 57-1-21;
(iii) each trustee designated under Subsection (4)(a)(ii) has a power of sale with respect to the property that is the subject of the delinquent assessment lien;
(iv) the property that is the subject of the delinquent assessment lien is considered to have been conveyed to the trustee, in trust, for the sole purpose of permitting the trustee to exercise the trustee's power of sale under Subsection (4)(a)(iii);
(v) if no one bids at the sale and pays the local entity the amount due on the assessment, plus interest and costs, the property is considered sold to the local entity for those amounts; and
(vi) the local entity's chief financial officer may substitute and appoint one or more successor trustees, as provided in Section 57-1-22.
(b) The designation of a trustee under Subsection (4)(a)(ii) shall be disclosed in the notice of default that the trustee gives to commence the foreclosure, and need not be stated in a separate instrument.
(5)
(a) The redemption of property that is the subject of a tax sale under Subsection (2)(a)(ii)(B) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.
(b) The redemption of property that is the subject of a foreclosure proceeding under Subsection (2)(a)(ii)(C) is governed by Title 57, Chapter 1, Conveyances.
(6)
(a) The remedies described in this part for the collection of an assessment and the enforcement of an assessment lien are cumulative.
(b) The use of one or more of the remedies described in this part does not deprive the local entity of any other available remedy or means of collecting the assessment or enforcing the assessment lien.

Amended by Chapter 197, 2018 General Session

11-42-502.1 Enforcement of an assessment lien -- Post-May 10, 2016, procedure.
(1)
(a) Except as provided in Subsection (1)(b), the provisions of this section apply to any property that is:
(i) located within the boundaries of an assessment area; and
(ii) the subject of a foreclosure procedure initiated on or after May 10, 2016, for an assessment or an installment of an assessment that is not paid when due.
(b) The provisions of this chapter do not apply to property described in Subsection 11-42-502(1)(b).
(2)
(a) If an assessment or an installment of an assessment is not paid when due in a given year:
(i) subject to Subsection (2)(b):

(A) by September 15, the governing body of the local entity that levies the assessment shall certify any unpaid amount calculated as of the date of the certification to the treasurer of the county in which the assessed property is located; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year; and

(ii) the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs:

(A) in the manner provided in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes;

(B) by judicial foreclosure; or

(C) in the manner described in Title 57, Chapter 1, Conveyances, if the property is in a voluntary assessment area and the owner of record of the property executed a property owner's consent form described in Subsection 11-42-202(1)(l) that includes a provision described in Subsection 11-42-202(1)(l)(iv).

(b)

(i) The certification of the unpaid amount described in Subsection (2)(a)(i):

(A) has no effect on the amount due plus interest, penalties, and costs or other requirements of the assessment as described in the assessment resolution or ordinance; and

(B) is required to provide for the ability of the local entity to collect the delinquent assessment by the sale of property in a sale for delinquent general property taxes and tax notice charges, as that term is defined in Section 59-2-1301.5, in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes.

(ii) A local entity's failure to certify an amount in accordance with Subsection (2)(a)(i) or a county treasurer's failure to include the certified amount on the property tax notice is not a defense to and does not delay, prohibit, or diminish a local entity's lien rights or authority to pursue any enforcement remedy, other than a delay in the local entity's ability to collect the delinquent assessment as described in Subsection (2)(b)(i)(B).

(c) Nothing in Subsection (2)(a)(i) or in Title 11, Chapter 60, Political Subdivision Lien Authority, prohibits or diminishes a local entity's authority to pursue any remedy in Subsection (2)(a)(ii).

(3) Except as otherwise provided in this chapter, each tax sale under Subsection (2)(a)(ii)(A) shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale were for the sale of property for delinquent general property taxes.

(4)

(a) The redemption of property that is the subject of a tax sale under Subsection (2)(a)(ii)(A) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

(b) The redemption of property that is the subject of a judicial foreclosure proceeding under Subsection (2)(a)(ii)(B) is governed by Title 78B, Chapter 6, Part 9, Mortgage Foreclosure.

(c) The redemption of property that is the subject of a foreclosure proceeding under Subsection (2)(a)(ii)(C) is governed by Title 57, Chapter 1, Conveyances.

(5)

(a) The remedies described in this part for the collection of an assessment and the enforcement of an assessment lien are cumulative.

(b) The use of one or more of the remedies described in this part does not deprive the local entity of any other available remedy or means of collecting the assessment or enforcing the assessment lien.

Amended by Chapter 282, 2020 General Session

11-42-503 Local entity payments to avoid a default in local entity obligations -- Reimbursement of payments when property sold at tax or foreclosure sale.

(1) To avoid a default in the payment of outstanding local entity obligations, a local entity may pay:
(a) the delinquent amount due, plus interest, penalties, and costs;
(b) the amounts described in Subsection (1)(a) and the full balance of an assessment, if accelerated; or
(c) any part of an assessment or an installment of an assessment that becomes due during the redemption period.
(2) A local entity may:
(a) pay the amounts under Subsection (1) from a guaranty fund or a reserve fund, or from any money legally available to the local entity; and
(b) charge the amounts paid against the delinquent property.
(3)
(a) Upon the tax sale or foreclosure of the property charged as provided in Subsection (2):
(i) all amounts that the local entity paid shall be included in the sale price of the property recovered in the sale; and
(ii) the local entity's guaranty fund, reserve fund, or other source of money paid under Subsection (2)(a), as the case may be, shall be reimbursed for those amounts.
(b) If the property charged as provided in Subsection (2) is sold to the local entity at the tax sale or foreclosure and additional assessment installments become due, the local entity:
(i) may pay the additional installments from the guaranty fund or reserve fund, as the case may be, or from any legally available money;
(ii) shall recover, in a sale of the property, the amount of the installments paid; and
(iii) shall reimburse the guaranty fund or reserve fund when the property is sold.

Enacted by Chapter 329, 2007 General Session

11-42-504 Assessments on property that the local entity acquires at tax sale or foreclosure -- Transferring title of property in lieu of paying assessments -- Reimbursement.

(1)
(a) Each local entity that purchases property at a tax sale or foreclosure under this part shall pay into the assessment fund all applicable annual installments of assessments and interest for as long as the local entity owns the property.
(b) A local entity may make payments required under this Subsection (1) from the guaranty fund or reserve fund.
(2)
(a) In lieu of making payments under Subsection (1), a local entity may elect to transfer title of the property to the owners of all outstanding assessment bonds, refunding assessment bonds, interim warrants, or bond anticipation notes as payment in full for all delinquent assessments with respect to the property only if:
(i) the local entity and owners agree to the election to transfer; and
(ii) an indenture, private placement memo, or other document or contract memorializing the terms of debt explicitly discloses the terms of the agreement described in Subsection (2)(a)(i).
(b) If a local entity transfers title to property as provided in Subsection (2)(a) or sells property it has received from a tax sale or foreclosure, the selling price may not be less than the amount sufficient to reimburse the local entity for all amounts the local entity paid with respect to an assessment on the property, including an amount sufficient to reimburse the guaranty

fund or reserve fund, as the case may be, for all amounts paid from the fund for delinquent assessments or installments of assessments relating to the property, plus interest, penalties, and costs.
(c) Each local entity that sells property it has received from a tax sale or foreclosure shall place the money it receives from the sale into the guaranty fund, reserve fund, or other local entity fund, as the case may be, to the extent of full reimbursement as required in this section.

Amended by Chapter 445, 2015 General Session

11-42-505 Default in the payment of an installment of an assessment -- Interest and costs -- Restoring the property owner to the right to pay installments.
(1) If an assessment is payable in installments and a default occurs in the payment of an installment when due, the governing body may:
(a) declare the delinquent amount to be immediately due and subject to collection as provided in this chapter;
(b) accelerate payment of the total unpaid balance of the assessment and declare the whole of the unpaid principal and the interest then due to be immediately due and payable; and
(c) charge and collect all costs of collection, including attorney fees.
(2) Interest shall accrue from the date of delinquency on all applicable amounts under Subsections (1)(a) and (b) until paid in full.
(3) Any interest assessed for or collection costs charged under this section shall be:
(a) the same as apply to delinquent real property taxes for the year in which the balance of the fee or charge becomes delinquent; or
(b) as the governing body determines.
(4) Notwithstanding Subsection (1), a property owner shall be restored to the right to pay an assessment in installments in the same manner as if no default had occurred if the owner pays the amount of all unpaid installments that are past due, with interest, collection and foreclosure costs, and administrative, redemption, and other fees, including attorney fees, before:
(a) the final date that payment may be legally made under a final sale or foreclosure of property to collect delinquent assessment installments, if collection is enforced under Title 59, Chapter 2, Part 13, Collection of Taxes; or
(b) the end of the three-month reinstatement period provided by Section 57-1-31, if collection is enforced through the method of foreclosing trust deeds.

Enacted by Chapter 329, 2007 General Session

11-42-506 Release and discharge of assessment lien -- Notice of dissolution of assessment area.
(1)
(a) Upon an assessment on a parcel of property having been paid in full, the local entity shall file, in the office of the recorder of the county in which the property is located, a release and discharge of the assessment lien on that property.
(b) Each release and discharge under Subsection (1)(a) shall:
(i) include a legal description of the affected property; and
(ii) comply with other applicable requirements for recording a document.
(2)
(a) Upon all assessments levied within an assessment area having been paid in full, or upon payment in full having been provided for, the local entity shall file, in the office of the recorder

of the county in which the property within the assessment area is located, a notice of the dissolution of the assessment area.
(b) Each notice under Subsection (2)(a) shall:
(i) include a legal description of the property assessed within the assessment area; and
(ii) comply with all other applicable requirements for recording a document.

Enacted by Chapter 329, 2007 General Session

Part 6
Interim Warrants, Bond Anticipation Notes, Assessment Bonds, and Refunding Assessment Bonds

11-42-601 Interim warrants.
(1) A local entity may issue interim warrants against an assessment area.
(2) An interim warrant may be in any amount up to:
(a) as portions of the work on improvements in an assessment area are completed, 90% of the value of the completed work, as estimated by the local entity's project engineer;
(b) 100% of the value of the work completed, after completion of the work and acceptance of the work by the local entity's project engineer; and
(c) the price of property, the acquisition of which is required for an improvement.
(3) The governing body may:
(a) issue interim warrants at not less than par value in a manner the governing body determines; and
(b) use the proceeds from the issuance of interim warrants to pay:
(i) the contract price;
(ii) the property price; and
(iii) related costs, including overhead costs.
(4)
(a) Interim warrants shall bear interest from the date of their issuance until paid.
(b)
(i) The governing body shall:
(A) approve the interest rate applicable to interim warrants; and
(B) fix a maturity date for each interim warrant.
(ii) The interest rate applicable to interim warrants may be fixed or variable or a combination of fixed and variable.
(iii) If interim warrants carry a variable interest rate, the governing body shall specify the basis upon which the rate is to be determined, the manner in which the rate is to be adjusted, and a maximum interest rate.
(iv) A local entity may provide for interest on interim warrants to be paid semiannually, annually, or at maturity.
(v) If an interim warrant matures before the local entity has available sources of payment under Section 11-42-603, the local entity may authorize the issuance of a new interim warrant to pay the principal and interest on the maturing warrant.
(c) The local entity shall include interest accruing on interim warrants in the cost of improvements in the assessment area.

(5) A local entity may purchase some or all of the interim warrants it has issued using the local entity's general fund money.

Enacted by Chapter 329, 2007 General Session

11-42-602 Bond anticipation notes.

(1) A local entity may by resolution authorize the issuance of bond anticipation notes.
(2) A local entity may use the proceeds from the issuance of bond anticipation notes to pay:
 (a) the estimated acquisition and contract price;
 (b) the property price;
 (c) capitalized interest; and
 (d) related costs, including overhead costs.
(3) Each resolution authorizing the issuance of bond anticipation notes shall:
 (a) describe the bonds in anticipation of which the bond anticipation notes are to be issued;
 (b) specify the principal amount and maturity dates of the notes; and
 (c) specify the interest rate applicable to the notes.
(4)
 (a) The interest rate on bond anticipation notes issued under this section may be fixed, variable, or a combination of fixed and variable, as determined by the governing body.
 (b) If bond anticipation notes carry a variable interest rate, the governing body shall specify the basis upon which the rate is to be determined, the manner in which the rate is to be adjusted, and a maximum interest rate.
 (c) A local entity may provide for interest on bond anticipation notes to be paid semiannually, annually, or at maturity.
(5) A local entity may:
 (a) issue and sell bond anticipation notes in a manner and at a price, either at, below, or above face value, as the governing body determines by resolution; and
 (b) make bond anticipation notes redeemable prior to maturity, at the governing body's option and in the manner and upon the terms fixed by the resolution authorizing their issuance.
(6) Bond anticipation notes shall be executed, be in a form, and have details and terms as provided in the resolution authorizing their issuance.
(7) A local entity may issue bond anticipation notes to refund bond anticipation notes previously issued by the local entity.
(8) A local entity may include interest accruing on bond anticipation notes in the cost of improvements in an assessment area.

Amended by Chapter 246, 2009 General Session

11-42-603 Sources of payment for interim warrants and bond anticipation notes.

Each local entity that has issued interim warrants or bond anticipation notes shall pay the warrants or notes from:

(1) proceeds from the sale of assessment bonds;
(2) cash the local entity receives from the payment for improvements;
(3) assessments;
(4) improvement revenues that are not pledged to the payment of assessment bonds;
(5) proceeds from the sale of interim warrants or bond anticipation notes; or
(6) the local entity's guaranty fund or, if applicable, the reserve fund.

Amended by Chapter 246, 2009 General Session

11-42-604 Notice regarding resolution or ordinance authorizing interim warrants or bond anticipation notes -- Complaint contesting warrants or notes -- Prohibition against contesting warrants and notes.

(1) A local entity may publish notice, as provided in Subsection (2), of a resolution or ordinance that the governing body has adopted authorizing the issuance of interim warrants or bond anticipation notes.

(2)

(a) If a local entity chooses to publish notice under Subsection (1), the notice shall:

(i) be published:

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

(B) as required in Section 45-1-101; and

(ii) contain:

(A) the name of the issuer of the interim warrants or bond anticipation notes;

(B) the purpose of the issue;

(C) the maximum principal amount that may be issued;

(D) the maximum length of time over which the interim warrants or bond anticipation notes may mature;

(E) the maximum interest rate, if there is a maximum rate; and

(F) the times and place where a copy of the resolution or ordinance may be examined, as required under Subsection (2)(b).

(b) The local entity shall allow examination of the resolution or ordinance authorizing the issuance of the interim warrants or bond anticipation notes at its office during regular business hours.

(3) Any person may, within 30 days after publication of a notice under Subsection (1), file a verified, written complaint in the district court of the county in which the person resides, contesting the regularity, formality, or legality of the interim warrants or bond anticipation notes issued by the local entity or the proceedings relating to the issuance of the interim warrants or bond anticipation notes.

(4) After the 30-day period under Subsection (3), no person may contest the regularity, formality, or legality of the interim warrants or bond anticipation notes issued by a local entity under the resolution or ordinance that was the subject of the notice under Subsection (1), or the proceedings relating to the issuance of the interim warrants or bond anticipation notes.

Amended by Chapter 435, 2023 General Session

11-42-605 Local entity may authorize the issuance of assessment bonds -- Limit on amount of bonds -- Features of assessment bonds.

(1) After the 25-day prepayment period under Subsection 11-42-411(6) has passed or, if the 25-day prepayment period is waived under Section 11-42-104, after the assessment resolution or ordinance takes effect, a local entity may authorize the issuance of bonds to pay the costs of improvements in an assessment area, and other related costs, against the funds that the local entity will receive because of an assessment in an assessment area.

(2) A local entity may, by resolution or ordinance, delegate to one or more officers of the issuer the authority to:

(a) in accordance with and within the parameters set forth in the resolution or ordinance, approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and
(b) approve and execute all documents relating to the issuance of a bond.
(3) The aggregate principal amount of bonds authorized under Subsection (1) may not exceed the unpaid balance of assessments at the end of the 25-day prepayment period under Subsection 11-42-411(6).
(4) Assessment bonds issued under this section:
(a) are fully negotiable for all purposes;
(b) shall mature at a time that does not exceed the period that installments of assessments in the assessment area are due and payable, plus one year;
(c) shall bear interest at the lowest rate or rates reasonably obtainable;
(d) may not be dated earlier than the effective date of the assessment ordinance;
(e) shall be payable at the place, shall be in the form, and shall be sold in the manner and with the details that are provided in the resolution authorizing the issuance of the bonds;
(f) shall be issued in registered form as provided in Title 15, Chapter 7, Registered Public Obligations Act; and
(g) provide that interest be paid semiannually, annually, or at another interval as specified by the governing body.
(5)
(a) A local entity may:
(i)
(A) provide that assessment bonds be callable for redemption before maturity; and
(B) fix the terms and conditions of redemption, including the notice to be given and any premium to be paid;
(ii) subject to Subsection (5)(b), require assessment bonds to bear interest at a fixed or variable rate, or a combination of fixed and variable rates;
(iii) specify terms and conditions under which:
(A) assessment bonds bearing interest at a variable interest rate may be converted to bear interest at a fixed interest rate; and
(B) the local entity agrees to repurchase the bonds;
(iv) engage a remarketing agent and indexing agent, subject to the terms and conditions that the governing body agrees to; and
(v) include all costs associated with assessment bonds, including any costs resulting from any of the actions the local entity is authorized to take under this section, in an assessment levied under Section 11-42-401.
(b) If assessment bonds carry a variable interest rate, the local entity shall specify:
(i) the basis upon which the variable rate is to be determined over the life of the bonds;
(ii) the manner in which and schedule upon which the rate is to be adjusted; and
(iii) a maximum rate that the bonds may carry.
(6)
(a) Nothing in this part may be construed to authorize the issuance of assessment bonds to pay for the cost of ordinary repairs to pavement, sewers, drains, curbing, gutters, or sidewalks.
(b) Notwithstanding Subsection (6)(a), a local entity may issue assessment bonds to pay for extraordinary repairs to pavement, sewers, drains, curbing, gutters, or sidewalk.
(c) A local entity's governing body may define by resolution or ordinance what constitutes ordinary repairs and extraordinary repairs for purposes of this Subsection (6).

(d) Nothing in this Subsection (6) may be construed to limit a local entity from levying an assessment within an assessment area to pay operation and maintenance costs as described in a notice under Section 11-42-402.
(7) If a local entity has issued interim warrants under Section 11-42-601 or bond anticipation notes under Section 11-42-602 in anticipation of assessment bonds that the local entity issues under this part, the local entity shall provide for the retirement of the interim warrants or bond anticipation notes contemporaneously with the issuance of the assessment bonds.

Amended by Chapter 145, 2011 General Session

11-42-606 Assessment bonds are not a local entity's general obligation -- Liability and responsibility of a local entity that issues assessment bonds.
(1) Assessment bonds are not a general obligation of the local entity that issues them.
(2) A local entity that issues assessment bonds:
(a) may not be held liable for payment of the bonds except to the extent of:
(i) funds created and received from assessments against which the bonds are issued;
(ii) improvement revenues; and
(iii) the local entity's guaranty fund under Section 11-42-701 or, if applicable, reserve fund under Section 11-42-702; and
(b) is responsible for:
(i) the lawful levy of all assessments;
(ii) the collection and application of improvement revenues, as provided in this chapter;
(iii) the creation and maintenance of a guaranty fund or, if applicable, a reserve fund; and
(iv) the faithful accounting, collection, settlement, and payment of:
(A) assessments and improvement revenues; and
(B) money in a guaranty fund or, if applicable, a reserve fund.
(3) If a local entity illegally assesses property that is exempt from assessment, the local entity:
(a) is liable to the holders of assessment bonds for the payment of the illegal assessment; and
(b) shall pay the amount for which it is liable under Subsection (3)(a) from the local entity's general fund or other legally available money.

Enacted by Chapter 329, 2007 General Session

11-42-607 Refunding assessment bonds.
(1) A local entity may, by a resolution adopted by the governing body, authorize the issuance of refunding assessment bonds as provided in this section, in whole or in part, whether at or before the maturity of the prior bonds, at stated maturity, upon redemption, or declaration of maturity.
(2)
(a) Subject to Subsection (2)(b), the issuance of refunding assessment bonds is governed by Title 11, Chapter 27, Utah Refunding Bond Act.
(b) If there is a conflict between a provision of Title 11, Chapter 27, Utah Refunding Bond Act, and a provision of this part, the provision of this part governs.
(3) In issuing refunding assessment bonds, the local entity shall require the refunding assessment bonds and interest on the bonds to be payable from and secured, to the extent the prior bonds were payable from and secured, by:
(a)
(i) the same assessments; or

(ii) the reduced assessments adopted by the governing body under Section 11-42-608;
(b) the guaranty fund or, if applicable, reserve fund; and
(c) improvement revenues.
(4) Refunding assessment bonds:
(a) shall be payable solely from the sources described in Subsection (3);
(b) shall mature no later than the date that is one year after the final maturity of the prior bonds;
(c) may not mature at a time or bear interest at a rate that will cause the local entity to be unable to pay, from the sources listed in Subsection (3), the bonds when due;
(d) shall bear interest as the governing body determines, subject to the provisions of Section 11-42-605 relating to interest;
(e) may be issued to pay one or more issues of the local entity's prior bonds; and
(f) if issued to refund two or more issues of prior bonds, may be issued in one or more series.
(5) A local entity may provide for the payment of incidental costs associated with refunding assessment bonds:
(a) by advancing money from the local entity's general fund or other fund, if the local entity's governing body:
(i) determines that the advance is in the best interests of the local entity and its citizens, including the owners of property within the assessment area; and
(ii) provides that the assessments, interest on assessments, and improvement revenue from which the prior bonds are payable not be reduced during the period necessary to provide funds from those sources to reimburse the local entity with interest at the same rate that applies to the assessments;
(b) from premiums that the local entity receives from the sale of refunding assessment bonds;
(c) from earnings on the investment of refunding assessment bonds pending their use to refund prior bonds;
(d) from any other sources legally available to the local entity for this purpose; or
(e) from any combination of Subsections (5)(a) through (d).

Enacted by Chapter 329, 2007 General Session

11-42-608 Reducing assessments after issuance of refunding assessment bonds.
(1) Each local entity that issues refunding assessment bonds shall adopt a resolution or ordinance amending the assessment resolution or assessment ordinance previously adopted.
(2) Each amending resolution or ordinance under Subsection (1) shall:
(a) reduce, as determined by the local entity's governing body:
(i) the assessments levied under the previous resolution or ordinance;
(ii) the interest payable on the assessments levied under the previous resolution or ordinance; or
(iii) both the assessments levied under the previous resolution or ordinance and the interest payable on those assessments;
(b) allocate the reductions under Subsection (2)(a) so that the then unpaid assessments levied against benefitted property within the assessment area and the unpaid interest on those assessments receive a proportionate share of the reductions;
(c)
(i) state the amounts of the reduced payment obligation for each property assessed in the prior resolution or ordinance; or
(ii) incorporate by reference a revised assessment list approved by the governing body containing the reduced payment obligations; and

(d) state the effective date of any reduction in the assessment levied in the prior resolution or ordinance.

(3) A resolution or ordinance under Subsection (2) is not required to describe each block, lot, part of block or lot, tract, or parcel of property assessed.

(4) Each reduction under Subsection (2)(a) shall be the amount by which the principal or interest or both payable on the refunding assessment bonds, after accounting for incidental refunding costs associated with the refunding assessment bonds, is less than the amount of principal or interest or both payable on the prior bonds.

(5) A reduction under Subsection (2)(a) does not apply to an assessment or interest paid before the reduction.

(6) A resolution or ordinance under Subsection (2) may not become effective before the date when all principal, interest, any redemption premium on the prior bonds, and any advances made under Subsection 11-42-607(5)(a) are fully paid or legally considered to be paid.

(7)

(a) At least 21 days before the first payment of a reduced assessment becomes due, each local entity shall provide notice of the reduced payment obligations resulting from adoption of a resolution or ordinance under Subsection (2) by mailing, postage prepaid, a notice to each owner of benefitted property within the assessment area at the owner's mailing address.

(b) Each notice under Subsection (7)(a) shall:

(i) identify the property subject to the assessment; and

(ii) state the amount of the reduced payment obligations that will be payable after the applicable date stated in the resolution or ordinance under Subsection (1).

(c) A notice under Subsection (7)(a) may:

(i) contain other information that the governing body considers appropriate; and

(ii) be included with any other notice regarding the payment of an assessment and interest that the local entity sends to property owners in the assessment area within the time and addressed as required under Subsection (7)(a).

(d) The validity of a resolution or ordinance under Subsection (1) is not affected by:

(i) a local entity's failure to provide notice as required under this Subsection (7); or

(ii) a defect in the content of the notice or the manner or time in which the notice was provided.

(e) Whether or not notice under this Subsection (7) is properly given, no other notice is required to be given to owners of property within an assessment area in connection with the issuance of refunding assessment bonds.

(8) Except for the amount of reduction to a prior assessment or interest on a prior assessment, neither the issuance of refunding assessment bonds nor the adoption of a resolution or ordinance under Subsection (1) affects:

(a) the validity or continued enforceability of a prior assessment or interest on the assessment; or

(b) the validity, enforceability, or priority of an assessment lien.

(9) Each reduction of a prior assessment and the interest on the assessment shall continue to exist in favor of the refunding assessment bonds.

(10) Even after payment in full of the prior bonds that are refunded by refunding assessment bonds, an assessment lien continues to exist to secure payment of the reduced payment obligations, the penalties and costs of collection of those obligations, and the refunding assessment bonds in the same manner, to the same extent, and with the same priority as the assessment lien.

(11) A lien securing a reduced payment obligation from which refunding assessment bonds are payable and by which the bonds are secured is subordinate to an assessment lien securing

the original or prior assessment and prior bonds until the prior bonds are paid in full or legally considered to be paid in full.

(12) Unless prior bonds are paid in full simultaneously with the issuance of refunding assessment bonds, the local entity shall:

(a) irrevocably set aside the proceeds of the refunding assessment bonds in an escrow or other separate account; and

(b) pledge that account as security for the payment of the prior bonds, refunding assessment bonds, or both.

(13) This part applies to all refunding assessment bonds:

(a) whether already issued or yet to be issued; and

(b) even though the prior bonds they refunded were issued under prior law, whether or not that law is currently in effect.

Enacted by Chapter 329, 2007 General Session

11-42-609 Validation of previously issued obligations.

(1) Subject to Subsection (2):

(a) all local entity obligations issued by a local entity before April 30, 2007 are:

(i) validated, ratified, and confirmed; and

(ii) declared to constitute legally binding obligations in accordance with their terms; and

(b) all proceedings before April 30, 2007 related to the authorization and issuance of local entity obligations are validated, ratified, and confirmed.

(2) Nothing in this section may be construed to affect the validity of local entity obligations, a guaranty fund, or a reserve fund whose legality is being contested on April 30, 2007.

(3)

(a) This chapter applies to all local entity obligations issued after April 30, 2007, even though proceedings were taken before that date under provisions of the law then in effect but repealed or modified on or after that date.

(b) Proceedings taken as described in Subsection (3)(a) under the law in effect before April 30, 2007 are validated, ratified, and confirmed, subject to question only as provided in Section 11-42-106.

(4) The validity of local entity obligations issued before April 30, 2007 is not affected by changes to the law under which they were issued that become effective on or after April 30, 2007.

Enacted by Chapter 329, 2007 General Session

Part 7
Guaranty and Reserve Funds

11-42-701 Guaranty fund.

(1) Except as provided in Section 11-42-702, each local entity that issues assessment bonds shall:

(a) create a guaranty fund, as provided in this section, to secure bonds, to the extent of the money in the fund; and

(b) fund the guaranty fund by:

(i) appropriations from the local entity's general fund;

(ii) a property tax levy of not to exceed .0002 per dollar of taxable value of taxable property within the local entity's jurisdictional boundaries;
(iii) issuing general obligation bonds; or
(iv) appropriations from other sources as determined by the local entity's governing body.
(2) A tax levied by a local entity under Subsection (1)(b)(ii) to fund a guaranty fund is not included for purposes of calculating the maximum levy limitation applicable to the local entity.
(3) A local entity may covenant for the benefit of bond holders that, as long as the bonds are outstanding and unpaid, the local entity will:
(a) create a guaranty fund as provided in this section;
(b)
(i) to the extent legally permissible and by any of the methods described in Subsection (1)(b), transfer each year to the guaranty fund an amount of money up to the amount the local entity would collect by levying a tax of .0002 per dollar of taxable value of taxable property within the local entity until the balance in the guaranty fund equals 10% of the amount of all outstanding bonds; and
(ii) in subsequent years transfer to the guaranty fund the amount necessary to replenish or maintain the guaranty fund at 10% of the amount of all outstanding bonds; and
(c) invest the funds on deposit in the guaranty fund as provided in Title 51, Chapter 7, State Money Management Act.
(4) A local entity may create subaccounts within a guaranty fund for each issue of outstanding assessment bonds and refunding assessment bonds in a manner that the local entity's governing body considers appropriate to allocate among the bond issues the securities held in and interest earnings on the guaranty fund for purposes of complying with federal law.
(5) A local entity may transfer to its general fund any money in its guaranty fund that exceeds 10% of the amount of all of the local entity's outstanding assessment bonds and refunding assessment bonds that are secured by the guaranty fund.
(6) For purposes of Subsections (3)(b) and (5), refunding assessment bonds may not be considered outstanding until the principal of and interest and any redemption premiums on the prior bonds that are refunded by the refunding assessment bonds are fully paid or legally considered to be paid.

Enacted by Chapter 329, 2007 General Session

11-42-702 Reserve fund.
(1) In lieu of creating and funding a guaranty fund under Section 11-42-701 for an issue of assessment bonds or refunding assessment bonds, a local entity may establish a reserve fund to secure the issue.
(2) If a local entity establishes a reserve fund under this section:
(a) the bonds secured by the reserve fund are not secured by a guaranty fund under Section 11-42-701;
(b) the local entity is not required to fund a guaranty fund under Section 11-42-701 for those bonds; and
(c) unless otherwise provided in this part or in the proceedings authorizing the issuance of bonds, the provisions of this part regarding a guaranty fund have no application to the bonds that are secured by the reserve fund.
(3) Each local entity that establishes a reserve fund shall:
(a) fund and replenish the reserve fund in the amounts and manner provided in the proceedings authorizing the issuance of the bonds that are secured by the reserve fund; and

(b) invest the funds on deposit in the reserve fund as provided in Title 51, Chapter 7, State Money Management Act.

(4)

(a) Subject to Subsection (4)(b), a local entity may replenish a reserve fund under this section by any of the methods described in Subsection 11-42-701(1)(b).

(b) The proceedings authorizing the issuance of assessment bonds or refunding assessment bonds shall provide that if a local entity uses any of the methods described in Subsection 11-42-701(1)(b) to replenish a reserve fund, the local entity shall be reimbursed, with interest at a rate that the local entity determines, with money that the local entity receives from foreclosing on delinquent property.

(5) Upon the retirement of bonds secured by a reserve fund, the local entity shall:

(a) terminate the reserve fund; and

(b) disburse all remaining money in the fund as provided in the proceedings authorizing the issuance of the bonds.

Amended by Chapter 246, 2009 General Session

11-42-703 Payment from guaranty fund or reserve fund if insufficient funds available in the assessment fund -- Payment by warrant from guaranty fund or reserve fund -- Subrogation.

(1) If a bond is presented to the local entity for payment at a time when there is insufficient money in the assessment fund to pay the amount due, the local entity shall pay the amount due from the guaranty fund or, if applicable, reserve fund.

(2) If there is insufficient money in the guaranty fund or, if applicable, the reserve fund to pay the amount due under Subsection (1), the local entity may pay by a warrant drawn against the guaranty fund or, if applicable, reserve fund.

(3) If a local entity pays from its guaranty fund or reserve fund any principal or interest owing under a bond:

(a) the local entity is subrogated to the rights of the bond holders; and

(b) the proceeds from the bond shall become part of the guaranty fund or reserve fund, as the case may be.

Enacted by Chapter 329, 2007 General Session

11-42-704 Transfers from local entity funds to replenish guaranty fund or reserve fund.

If the guaranty fund or, if applicable, the reserve fund has insufficient money for the local entity to purchase property on which it bids at a sale under Part 5, Assessment Liens, for delinquent assessments, the local entity may transfer or appropriate money from its general fund or other available sources, as the governing body determines, to replenish the guaranty fund or reserve fund.

Enacted by Chapter 329, 2007 General Session

11-42-705 Warrants to meet guaranty fund and reserve fund liabilities -- Levy to pay warrants authorized -- Limit on the levy.

(1) A local entity may issue warrants, bearing interest at a rate determined by the governing body, against a guaranty fund or reserve fund to meet any financial liabilities accruing against the fund.

(2)

(a) If a local entity issues warrants under Subsection (1), the local entity shall, subject to Subsection (2)(b), include in its next annual tax levy an amount sufficient, with other guaranty fund or reserve fund resources, to pay all issued and outstanding warrants under Subsection (1) for all assessment areas within the local entity.
(b) A levy under Subsection (2)(a):
(i) may not exceed .0002 per dollar of taxable value of taxable property in the local entity; and
(ii) is exempt from the statutory limit applicable to the local entity's property tax levy.

Enacted by Chapter 329, 2007 General Session

11-42-706 Validation of prior guaranty fund or reserve fund proceedings.
(1) Subject to Subsection (2), all proceedings before April 30, 2007 related to the creation, maintenance, and use of a guaranty fund or reserve fund are validated, ratified, and confirmed.
(2) Nothing in this section may be construed to affect the validity of a guaranty fund or reserve fund whose legality is being contested on April 30, 2007.

Enacted by Chapter 329, 2007 General Session

Chapter 42a
Commercial Property Assessed Clean Energy Act

Part 1
General Provisions

11-42a-101 Title.
This chapter is known as the "Commercial Property Assessed Clean Energy Act" or "C-PACE Act."

Enacted by Chapter 470, 2017 General Session

11-42a-102 Definitions.
(1) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).
(2)
(a) "Assessment" means the assessment that a local entity or the C-PACE district levies on private property under this chapter to cover the costs of an energy efficiency upgrade, a renewable energy system, or an electric vehicle charging infrastructure.
(b) "Assessment" does not constitute a property tax but shares the same priority lien as a property tax.
(3) "Assessment fund" means a special fund that a local entity establishes under Section 11-42a-206.
(4) "Benefitted property" means private property within an energy assessment area that directly benefits from improvements.
(5) "Bond" means an assessment bond and a refunding assessment bond.
(6)

(a) "Commercial or industrial real property" means private real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:
(i) commercial;
(ii) mining;
(iii) agricultural;
(iv) industrial;
(v) manufacturing;
(vi) trade;
(vii) professional;
(viii) a private or public club;
(ix) a lodge;
(x) a business; or
(xi) a similar purpose.
(b) "Commercial or industrial real property" includes:
(i) private real property that is used as or held for dwelling purposes and contains:
(A) more than four rental units; or
(B) one or more owner-occupied or rental condominium units affiliated with a hotel; and
(ii) real property owned by:
(A) the military installation development authority, created in Section 63H-1-201; or
(B) the Utah Inland Port Authority, created in Section 11-58-201.
(7) "Contract price" means:
(a) up to 100% of the cost of installing, acquiring, refinancing, or reimbursing for an improvement, as determined by the owner of the property benefitting from the improvement; or
(b) the amount payable to one or more contractors for the assessment, design, engineering, inspection, and construction of an improvement.
(8) "C-PACE" means commercial property assessed clean energy.
(9) "C-PACE district" means the statewide authority established in Section 11-42a-106 to implement the C-PACE Act in collaboration with governing bodies, under the direction of OED.
(10) "Electric vehicle charging infrastructure" means equipment that is:
(a) permanently affixed to commercial or industrial real property; and
(b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying plug-in hybrid vehicle.
(11) "Energy assessment area" means an area:
(a) within the jurisdictional boundaries of a local entity that approves an energy assessment area or, if the C-PACE district or a state interlocal entity levies the assessment, the C-PACE district or the state interlocal entity;
(b) containing only the commercial or industrial real property of owners who have voluntarily consented to an assessment under this chapter for the purpose of financing the costs of improvements that benefit property within the energy assessment area; and
(c) in which the proposed benefitted properties in the area are:
(i) contiguous; or
(ii) located on one or more contiguous or adjacent tracts of land that would be contiguous or adjacent property but for an intervening right-of-way, including a sidewalk, street, road, fixed guideway, or waterway.
(12) "Energy assessment bond" means a bond:
(a) issued under Section 11-42a-401; and
(b) payable in part or in whole from assessments levied in an energy assessment area.

(13) "Energy assessment lien" means a lien on property within an energy assessment area that arises from the levy of an assessment in accordance with Section 11-42a-301.
(14) "Energy assessment ordinance" means an ordinance that a local entity adopts under Section 11-42a-201 that:
(a) designates an energy assessment area;
(b) levies an assessment on benefitted property within the energy assessment area; and
(c) if applicable, authorizes the issuance of energy assessment bonds.
(15) "Energy assessment resolution" means one or more resolutions adopted by a local entity under Section 11-42a-201 that:
(a) designates an energy assessment area;
(b) levies an assessment on benefitted property within the energy assessment area; and
(c) if applicable, authorizes the issuance of energy assessment bonds.
(16) "Energy efficiency upgrade" means an improvement that is:
(a) permanently affixed to commercial or industrial real property; and
(b) designed to reduce energy or water consumption, including:
(i) insulation in:
(A) a wall, roof, floor, or foundation; or
(B) a heating and cooling distribution system;
(ii) a window or door, including:
(A) a storm window or door;
(B) a multiglazed window or door;
(C) a heat-absorbing window or door;
(D) a heat-reflective glazed and coated window or door;
(E) additional window or door glazing;
(F) a window or door with reduced glass area; or
(G) other window or door modifications;
(iii) an automatic energy control system;
(iv) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;
(v) caulk or weatherstripping;
(vi) a light fixture that does not increase the overall illumination of a building, unless an increase is necessary to conform with the applicable building code;
(vii) an energy recovery system;
(viii) a daylighting system;
(ix) measures to reduce the consumption of water, through conservation or more efficient use of water, including installation of:
(A) low-flow toilets and showerheads;
(B) timer or timing systems for a hot water heater; or
(C) rain catchment systems;
(x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body or executive of a local entity;
(xi) measures or other improvements to effect seismic upgrades;
(xii) structures, measures, or other improvements to provide automated parking or parking that reduces land use;
(xiii) the extension of an existing natural gas distribution company line;
(xiv) an energy efficient elevator, escalator, or other vertical transport device;
(xv) any other improvement that the governing body or executive of a local entity approves as an energy efficiency upgrade; or

(xvi) any improvement that relates physically or functionally to any of the improvements listed in Subsections (16)(b)(i) through (xv).

(17) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for a special district, the board of trustees of the special district;

(c) for a special service district:

(i) if no administrative control board has been appointed under Section 17D-1-301, the legislative body of the county, city, town, or metro township that established the special service district; or

(ii) if an administrative control board has been appointed under Section 17D-1-301, the administrative control board of the special service district;

(d) for the military installation development authority created in Section 63H-1-201, the board, as that term is defined in Section 63H-1-102; and

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

(18) "Improvement" means a publicly or privately owned energy efficiency upgrade, renewable energy system, or electric vehicle charging infrastructure that:

(a) a property owner has requested; or

(b) has been or is being installed on a property for the benefit of the property owner.

(19) "Incidental refunding costs" means any costs of issuing a refunding assessment bond and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, and the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bond and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of a refunding assessment bond; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bond.

(20) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(21) "Jurisdictional boundaries" means:

(a) for the C-PACE district or any state interlocal entity, the boundaries of the state; and

(b) for each local entity, the boundaries of the local entity.

(22)

(a) "Local entity" means:

(i) a county, city, town, or metro township;

(ii) a special service district, a special district, or an interlocal entity as that term is defined in Section 11-13-103;

(iii) a state interlocal entity;

(iv) the military installation development authority, created in Section 63H-1-201;

(v) the Utah Inland Port Authority, created in Section 11-58-201; or

(vi) any political subdivision of the state.

(b) "Local entity" includes the C-PACE district solely in connection with:

(i) the designation of an energy assessment area;
(ii) the levying of an assessment; and
(iii) the assignment of an energy assessment lien to a third-party lender under Section 11-42a-302.

(23) "Local entity obligations" means energy assessment bonds and refunding assessment bonds that a local entity issues.
(24) "OED" means the Office of Energy Development created in Section 79-6-401.
(25) "OEM vehicle" means the same as that term is defined in Section 19-1-402.
(26) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred in connection with an energy assessment area, including:
(a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;
(b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;
(c) publishing and mailing costs;
(d) costs of levying an assessment;
(e) recording costs; and
(f) all other incidental costs.
(27) "Parameters resolution" means a resolution or ordinance that a local entity adopts in accordance with Section 11-42a-201.
(28) "Prior bonds" means the energy assessment bonds refunded in part or in whole by a refunding assessment bond.
(29) "Prior energy assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.
(30) "Prior energy assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.
(31) "Property" includes real property and any interest in real property, including water rights and leasehold rights.
(32) "Public electrical utility" means a large-scale electric utility as that term is defined in Section 54-2-1.
(33) "Qualifying electric vehicle" means a vehicle that:
(a) meets air quality standards;
(b) is not fueled by natural gas;
(c) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity; and
(d) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (33)(c).
(34) "Qualifying plug-in hybrid vehicle" means a vehicle that:
(a) meets air quality standards;
(b) is not fueled by natural gas or propane;
(c) has a battery capacity that meets or exceeds the battery capacity described in Subsection 30D(b)(3), Internal Revenue Code; and
(d) is fueled by a combination of electricity and:
(i) diesel fuel;
(ii) gasoline; or
(iii) a mixture of gasoline and ethanol.
(35) "Reduced payment obligation" means the full obligation of an owner of property within an energy assessment area to pay an assessment levied on the property after the local entity has reduced the assessment because of the issuance of a refunding assessment bond, in accordance with Section 11-42a-403.
(36) "Refunding assessment bond" means an assessment bond that a local entity issues under Section 11-42a-403 to refund, in part or in whole, energy assessment bonds.

(37)
(a) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as that term is defined in Section 54-2-1, and:
(i) produces energy from renewable resources, including:
(A) a photovoltaic system;
(B) a solar thermal system;
(C) a wind system;
(D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;
(E) a microhydro system;
(F) a biofuel system; or
(G) any other renewable source system that the governing body of the local entity approves;
(ii) stores energy, including:
(A) a battery storage system; or
(B) any other energy storing system that the governing body or chief executive officer of a local entity approves; or
(iii) any improvement that relates physically or functionally to any of the products, systems, or devices listed in Subsection (37)(a)(i) or (ii).
(b) "Renewable energy system" does not include a system described in Subsection (37)(a)(i) if the system provides energy to property outside the energy assessment area, unless the system:
(i)
(A) existed before the creation of the energy assessment area; and
(B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area; or
(ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter.
(38) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts.
(39) "Special service district" means the same as that term is defined in Section 17D-1-102.
(40) "State interlocal entity" means:
(a) an interlocal entity created under Chapter 13, Interlocal Cooperation Act, by two or more counties, cities, towns, or metro townships that collectively represent at least a majority of the state's population; or
(b) an entity that another state authorized, before January 1, 2017, to issue bonds, notes, or other obligations or refunding obligations to finance or refinance projects in the state.
(41) "Third-party lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides loans directly to property owners for improvements authorized under this chapter.

Amended by Chapter 16, 2023 General Session

11-42a-103 No limitation on other local entity powers -- Conflict with other statutory provisions.

(1) This chapter does not limit a power that a local entity has under other applicable law to:

(a) make an improvement or provide a service;
(b) create a district;
(c) levy an assessment or tax; or
(d) issue a bond or a refunding bond.
(2) If there is a conflict between a provision of this chapter and any other statutory provision, the provision of this chapter governs.
(3) After January 1, 2017, a local entity or the C-PACE district may create an energy assessment area within the certificated service territory of a public electrical utility for the installation of a renewable energy system with a nameplate rating of:
(a) no more than 2.0 megawatts; or
(b) more than 2.0 megawatts to serve load that the public electrical utility does not already serve.

Enacted by Chapter 470, 2017 General Session

11-42a-104 Action to contest assessment or proceeding -- Requirements -- Exclusive remedy -- Bonds and assessment incontestable.

(1)
(a) A person may commence a civil action against a local entity to contest an assessment, a proceeding to designate an energy assessment area, or a proceeding to levy an assessment.
(b) The remedies available in a civil action described in Subsection (1)(a) are:
(i) setting aside the proceeding to designate an energy assessment area; or
(ii) enjoining the levy or collection of an assessment.
(2)
(a) A person bringing an action under Subsection (1) shall bring the action in the district court with jurisdiction in the county in which the energy assessment area is located.
(b) A person may not begin the action against or serve a summons relating to the action on the local entity more than 30 days after the earlier of:
(i) the date of publication or posting of the notice of the adoption of a parameters resolution that the local entity adopts in accordance with Section 11-42a-201;
(ii) the effective date of the energy assessment resolution or ordinance; or
(iii) the written agreement between a local entity and a third-party lender, described in Section 11-42a-302.
(3) An action under Subsection (1) is the exclusive remedy of a person:
(a) claiming an error or irregularity in an assessment, a proceeding to designate an energy assessment area, or a proceeding to levy an assessment; or
(b) challenging a bondholder's or third-party lender's right to repayment.
(4) A court may not set aside, in part or in whole or declare invalid an assessment, a proceeding to designate an energy assessment area, or a proceeding to levy an assessment because of an error or irregularity that does not relate to the equity or justice of the assessment or proceeding.
(5) Except as provided in Subsection (6), after the expiration of the 30-day period described in Subsection (2)(b):
(a) the following become incontestable against any person that has not commenced an action and served a summons as provided in this section:
(i) the written agreement entered into or to be entered into under Section 11-42a-302;
(ii) the energy assessment bonds and refunding assessment bonds:
(A) that a local entity has issued or intends to issue; or
(B) with respect to the creation of an energy assessment area; and
(iii) assessments levied on property in the energy assessment area; and

(b) a court may not inquire into and a person may not bring a suit to enjoin or challenge:
(i) the issuance or payment of an energy assessment bond or a refunding assessment bond;
(ii) the payment under the written agreement between a local entity and a third-party lender described in Section 11-42a-302;
(iii) the levy, collection, or enforcement of an assessment;
(iv) the legality of an energy assessment bond, a refunding assessment bond, or a written agreement between a local entity and a third-party lender described in Section 11-42a-302; or
(v) an assessment.
(6)
(a) A person may bring a claim of misuse of assessment funds through a mandamus action regardless of the expiration of the 30-day period described in Subsection (2)(b).
(b) This section does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

Amended by Chapter 431, 2018 General Session

11-42a-105 Severability.

A court's invalidation of any provision of this chapter does not affect the validity of any other provision of this chapter.

Enacted by Chapter 470, 2017 General Session

11-42a-106 C-PACE district established -- OED to direct and administer C-PACE district.

(1) There is created the C-PACE district.
(2) The C-PACE district may, subject to Subsection (3):
(a) designate an energy assessment area;
(b) levy an assessment;
(c) assign an energy assessment lien to a third-party lender; and
(d) collect an assessment within an energy assessment area in accordance with Section 11-42a-302.
(3)
(a) The C-PACE district may only take the actions described in Subsection (2) if a governing body makes a written request of the C-PACE district to, in accordance with this chapter:
(i) create an energy assessment area within the jurisdiction of the governing body; and
(ii) finance an improvement within that energy assessment area.
(b) Before creating an energy assessment area under Subsection (3)(a), the C-PACE district shall enter into an agreement with the relevant public electrical utility to establish the scope of the improvement to be financed.
(4)
(a) OED shall administer and direct the operation of the C-PACE district.
(b) OED may:
(i) adopt a fee schedule and charge fees, in accordance with Section 63J-1-504, to cover the cost of administering and directing the operation of the C-PACE district;
(ii) delegate OED's powers under this chapter to a third party to assist in administering and directing the operation of the C-PACE district; and
(iii) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures necessary to carry out the actions described in Subsection (2).

(c) If OED delegates OED's power under Subsection (4)(b)(ii), OED shall:
(i) delegate the authority through a written agreement with the third party; and
(ii) ensure that the written agreement includes provisions that:
(A) require the third party to be subject to an audit by the state auditor regarding the delegation;
(B) require the third party to submit to OED monthly reports, including information regarding the assessments the C-PACE district levies and the payments the C-PACE district receives; and
(C) insulate OED from liability for the actions of the third party and the C-PACE district while under the direction and administration of the third party.
(d) OED is subject to Title 63G, Chapter 7, Governmental Immunity Act of Utah.
(5) The state is not liable for the acts or omissions of the C-PACE district or the C-PACE district's directors, administrators, officers, agents, employees, third-party directors or administrators, or third-party lenders, including any obligation, expense, debt, or liability of the C-PACE district.

Enacted by Chapter 470, 2017 General Session

Part 2
Energy Assessments

11-42a-201 Resolution or ordinance designating an energy assessment area, levying an assessment, and issuing an energy assessment bond -- Notice of adoption.

(1)
(a) Except as otherwise provided in this chapter, and subject to the requirements of this part, at the request of a property owner on whose property or for whose benefit an improvement is being installed or being reimbursed, a governing body of a local entity may adopt an energy assessment resolution or an energy assessment ordinance that:
(i) designates an energy assessment area;
(ii) levies an assessment within the energy assessment area; and
(iii) if applicable, authorizes the issuance of an energy assessment bond.
(b) The governing body of a local entity may, by adopting a parameters resolution, delegate to an officer of the local entity, in accordance with the parameters resolution, the authority to:
(i) execute an energy assessment resolution or ordinance that:
(A) designates an energy assessment area;
(B) levies an energy assessment lien; and
(C) approves the final interest rate, price, principal amount, maturities, redemption features, and other terms of the energy assessment bonds; and
(ii) approve and execute all documents related to the designation of the energy assessment area, the levying of the energy assessment lien, and the issuance of the energy assessment bonds.
(c) The boundaries of a proposed energy assessment area may:
(i) include property that is not intended to be assessed; and
(ii) overlap, be coextensive with, or be substantially coterminous with the boundaries of any other energy assessment area or an assessment area created under Title 11, Chapter 42, Assessment Area Act.

(d) The energy assessment resolution or ordinance described in Subsection (1)(a) is adequate for purposes of identifying the property to be assessed within the energy assessment area if the resolution or ordinance describes the property to be assessed by legal description and tax identification number.

(2)

(a) A local entity that adopts an energy assessment resolution or ordinance under Subsection (1)(a) or a parameters resolution under Subsection (1)(b) shall give notice of the adoption of the energy assessment resolution or ordinance or the parameters resolution by publishing a copy of the resolution or ordinance for the local entity's jurisdiction, as a class A notice under Section 63G-30-102, for at least 21 days.

(b) Except as provided in Subsection (2)(a), a local entity is not required to make any other publication or posting of the resolution or ordinance.

(3) Notwithstanding any other statutory provision regarding the effective date of a resolution or ordinance, each energy assessment resolution or ordinance takes effect on the later of:

(a) the date on which the governing body of the local entity adopts the energy assessment resolution or ordinance;

(b) the date of publication or posting of the notice of adoption of either the energy assessment resolution or ordinance or the parameters resolution described in Subsection (2); or

(c) at a later date as provided in the resolution or ordinance.

(4)

(a) The governing body of each local entity that has adopted an energy assessment resolution or ordinance under Subsection (1) shall, within five days after the effective date of the resolution or ordinance, file a notice of assessment interest with the recorder of the county in which the property to be assessed is located.

(b) Each notice of assessment interest under Subsection (4)(a) shall:

(i) state that the local entity has an assessment interest in the property to be assessed; and

(ii) describe the property to be assessed by legal description and tax identification number.

(c) If a local entity fails to file a notice of assessment interest under this Subsection (4):

(i) the failure does not invalidate the designation of an energy assessment area; and

(ii) the local entity may not assess a levy against a subsequent purchaser of a benefitted property that lacked recorded notice unless:

(A) the subsequent purchaser gives written consent;

(B) the subsequent purchaser has actual notice of the assessment levy; or

(C) the subsequent purchaser purchased the property after a corrected notice was filed under Subsection (4)(d).

(d) The local entity may file a corrected notice if the entity fails to comply with the date or other requirements for filing a notice of assessment interest.

(e) If a governing body has filed a corrected notice under Subsection (4)(d), the local entity may not retroactively collect or adjust the amount of the levy to recapture lost funds for a levy that the local entity was prohibited from collecting, if applicable, under Subsection (4)(c).

Amended by Chapter 435, 2023 General Session

11-42a-202 Designation of energy assessment area -- Requirements.

A local entity may not include property in an energy assessment area unless the owner of the property located in the energy assessment area provides to the local entity:

(1) evidence that there are no existing delinquent taxes, special assessments, or water or sewer charges on the property;

(2) evidence that the property is not subject to a trust deed or other lien on which there is a recorded notice of default, foreclosure, or delinquency that has not been cured;
(3) evidence that there are no involuntary liens, including a lien on real property or on the proceeds of a contract relating to real property, for services, labor, or materials furnished in connection with the construction or improvement of the property; and
(4) the written consent of each person or institution holding a lien on the property.

Enacted by Chapter 470, 2017 General Session

11-42a-203 Levying an assessment within an energy assessment area-- Prerequisites.
(1) If a local entity designates an energy assessment area in accordance with this chapter, the local entity may:
  (a) levy an assessment within the energy assessment area; and
  (b) collect the assessment by:
    (i) directly billing the property owner; or
    (ii) inclusion on a property tax notice issued in accordance with this section and Section 59-2-1317.
(2) If a local entity includes an assessment on a property tax notice as described in Subsection (1)(b) and bills for the assessment in the same manner as a property tax, the assessment constitutes a lien, is enforced, and is subject to other penalty provisions, in accordance with this chapter.
(3) If a local entity includes an assessment on a property tax notice, the county treasurer shall, on the property tax notice:
  (a) clearly state that the assessment is for the improvement provided by the local entity; and
  (b) itemize the assessment separately from any other tax, fee, charge, interest, or penalty that is included on the property tax notice in accordance with Section 59-2-1317.

Enacted by Chapter 470, 2017 General Session

11-42a-204 Limit on amount of assessment.
(1) An assessment levied within an energy assessment area may not, in the aggregate, exceed the sum of:
  (a) the contract price or estimated contract price;
  (b) overhead costs not to exceed 15% of the sum of the contract price or estimated contract price;
  (c) an amount for contingencies of not more than 10% of the sum of the contract price or estimated contract price, if the assessment is levied before the completion of the construction of the improvements in the energy assessment area;
  (d) capitalized interest; or
  (e) an amount sufficient to fund a reserve fund.
(2) A local entity may only use the proceeds of an energy assessment bond or any third-party financing to refinance or reimburse the costs of improvements authorized under this chapter if the property owner incurred or financed the costs no earlier than three years before the day on which the local entity:
  (a) adopts a parameters resolution;
  (b) adopts an energy assessment resolution or ordinance; or
  (c) assigns the energy assessment lien.

Amended by Chapter 431, 2018 General Session

11-42a-205 Installment payment of assessments.

(1) In an energy assessment resolution or ordinance that a local entity adopts under Subsection 11-42a-201(1)(a), the governing body may provide that some or all of the assessment be paid in installments:

(a) in accordance with the resolution or ordinance; and

(b) over a period not to exceed 30 years from the effective date of the resolution or ordinance.

(2)

(a) Each governing body that adopts an energy assessment resolution or ordinance that provides for the assessment to be paid in installments shall ensure that the resolution or ordinance provides that the unpaid balance of the assessment bears interest at a fixed rate, a variable rate, or a combination of fixed and variable rates, as determined by the governing body, from the effective date of the resolution or ordinance or another date that the resolution or ordinance specifies.

(b) Each governing body that adopts an energy assessment resolution or ordinance that provides for the unpaid balance of the assessment to bear interest at a variable rate shall ensure that the resolution or ordinance specifies:

(i) the basis upon which the rate is to be determined from time to time;

(ii) the manner in which and schedule upon which the rate is to be adjusted; and

(iii) a maximum rate that the assessment may bear.

(3) Interest payable on assessments may include:

(a) interest on energy assessment bonds;

(b) ongoing costs that the local entity incurs for administration of the energy assessment area;

(c) a trustee's fees and expenses; and

(d) any costs that the local entity incurs with respect to:

(i) securing a letter of credit or other instrument to secure payment or repurchase of bonds; or

(ii) retaining a marketing agent or an indexing agent.

(4) A property owner shall pay interest imposed in an energy assessment resolution or ordinance annually or at more frequent intervals as the resolution or ordinance provides, in addition to the amount of each installment.

(5)

(a) At any time, a property owner may prepay some or all of the assessment levied against the owner's property.

(b) A local entity may require that a prepayment of an installment include:

(i) an amount equal to the interest that would accrue on the assessment to the next date on which interest is payable on a bond issued or a loan made in anticipation of the collection of the assessment; and

(ii) the amount necessary, as determined by the governing body or the officer that the governing body designates, to ensure the availability of money to pay:

(A) interest that becomes due and payable on a bond or loan described in Subsection (5)(b)(i); and

(B) any premiums that become payable on a loan that is prepaid or on a bond that is called for redemption in order to use the money from the prepaid assessment installment.

Amended by Chapter 431, 2018 General Session

11-42a-206 Assessment fund -- Uses of money in the fund -- Treasurer's duties.

(1) Unless a local entity has assigned an energy assessment lien to a third-party lender under Section 11-42a-302, the governing body of each local entity that levies an assessment under this part on benefitted property within an energy assessment area, or the local entity's designee, may establish an assessment fund.
(2) The governing body or the local entity's designee, as applicable, shall deposit into the assessment fund all money paid to or for the benefit of the local entity from an assessment and interest on the assessment.
(3) The local entity may only expend money in an assessment fund for paying:
  (a) local entity obligations; and
  (b) costs that the local entity or the local entity's designee incurs with respect to the administration of the energy assessment area.
(4)
  (a) The treasurer of the local entity or the local entity's designee, as applicable, is the custodian of the assessment fund, subject to Subsection (4)(c)(i).
  (b) The treasurer of the local entity or the local entity's designee, as applicable, shall:
    (i) keep the assessment fund intact and separate from all other local entity funds and money;
    (ii) invest money in the assessment fund in accordance with Title 51, Chapter 7, State Money Management Act; and
    (iii) keep on deposit in the assessment fund any interest the local entity receives from the investment of money in the assessment fund and use the interest exclusively for the purposes for which the governing body or the local entity's designee established the assessment fund.
  (c) The treasurer of the local entity or the local entity's designee, as applicable, may:
    (i) arrange for a trustee bank to hold the assessment fund on behalf of the local entity; and
    (ii) pay money out of the assessment fund subject to Subsection (3).

Enacted by Chapter 470, 2017 General Session

Part 3
Energy Assessment Liens

11-42a-301 Assessment constitutes a lien -- Characteristics of an energy assessment lien.

(1) If a local entity that adopts an assessment resolution or ordinance records the assessment resolution or ordinance and the notice of proposed assessment, in accordance with Section 11-42a-201, in the office of the recorder of the county in which the assessed property is located, each assessment levied under this chapter, including any installment of an assessment, interest, and any penalties and costs of collection, constitutes a political subdivision lien, as that term is defined in Section 11-60-102, against the assessed property, in accordance with Title 11, Chapter 60, Political Subdivision Lien Authority, and subject to the provisions of this chapter, beginning on the effective date of the energy assessment resolution or ordinance that the local entity adopts under Subsection 11-42a-201(1)(a).
(2) An energy assessment lien under this section:
  (a) is superior to the lien of a trust deed, mortgage, mechanic's or materialman's lien, or other encumbrances;
  (b) has the same priority as, but is separate and distinct from:
    (i) a lien for general property taxes;

(ii) any other energy assessment lien levied under this chapter; or
(iii) an assessment lien levied under Title 11, Chapter 42, Assessment Area Act;
(c) applies to any reduced payment obligations without interruption, change in priority, or alteration in any manner; and
(d) continues until the assessment and any related reduced payment obligations, interest, penalties, and costs are paid, regardless of:
(i) a sale of the property for or on account of a delinquent general property tax, special tax, or other assessment; or
(ii) the issuance of a tax deed, an assignment of interest by the county, or a sheriff's certificate of sale or deed.

Amended by Chapter 197, 2018 General Session
Amended by Chapter 431, 2018 General Session

11-42a-302 Assignment of energy assessment lien.
(1)
(a) In lieu of issuing energy assessment bonds to finance the costs of improvements under this chapter, a third-party lender may provide financing to a property owner to finance, refinance, or reimburse the costs of improvements.
(b) A local entity, through the local entity's executive or administrator, as applicable, may assign to the third-party lender described in Subsection (1)(a) the local entity's rights in the energy assessment lien by entering into a written agreement with the third-party lender.
(2)
(a) If a local entity assigns the local entity's rights in an energy assessment lien to a third-party lender under Subsection (1), the local entity's executive or administrator, as applicable, may authorize the designation of the energy assessment area and the levying of the assessment in lieu of the adoption of an energy assessment resolution or ordinance by the governing body of the local entity under Section 11-42a-201.
(b) If a local entity assigns the local entity's rights under Subsection (1)(b), the local entity shall ensure that the written agreement with the third-party lender:
(i) includes the information required to be included within an energy assessment resolution or ordinance described in Section 11-42a-201;
(ii) complies with Section 11-42a-201;
(iii) requires the third-party lender to be subject to an audit by the state auditor regarding the assigned energy assessment lien;
(iv) requires the third-party lender to submit to the local entity monthly reports, including information regarding the payments the third-party lender receives; and
(v) insulates the local entity from liability for the actions of the third-party lender.
(3) If a local entity assigns an energy assessment lien to a third-party lender, in accordance with Subsection (1), except as provided in Subsection 11-42a-303(2), the third-party lender has and possesses the same powers and rights at law or in equity to enforce the lien that the local entity creating the lien would have if the local entity did not assign the lien, including the rights and powers of the local entity under Sections 11-42a-303 and 11-42a-304.
(4)
(a) Any financing in connection with the assignment of an energy assessment lien to a third-party lender under this section is not:
(i) an obligation of the local entity that assigns the lien; or
(ii) a charge against the general credit or taxing powers of the local entity that assigns the lien.

(b) A local entity may not obligate itself to pay any assessment levied or bond issued under this chapter.
(c) The assessments and the property upon which the energy assessment lien is recorded are the sole securities for the assignment of an energy assessment lien.

Enacted by Chapter 470, 2017 General Session

11-42a-303 Enforcement of an energy assessment lien.
(1)
(a) If an assessment or an installment of an assessment is not paid when due in a given year:
(i) subject to Subsection (1)(c):
(A) by September 15, the governing body of the local entity that levies the assessment shall certify any unpaid amount calculated as of the date of certification to the treasurer of the county in which the assessed property is located; and
(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year; and
(ii) the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs:
(A) in the manner provided in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes;
(B) by judicial foreclosure; or
(C) in the manner provided in Title 57, Chapter 1, Conveyances, as though the property were the subject of a trust deed in favor of the local entity if the owner of record of the property at the time the local entity initiates the process to sell the property in accordance with Title 57, Chapter 1, Conveyances, has executed a property owner's consent form in accordance with Subsection (1)(b).
(b) The local entity shall ensure that the consent form described in Subsection (1)(a)(ii)(C):
(i) estimates the total assessment to be levied against the particular parcel of property;
(ii) describes any additional benefits that the local entity expects the assessed property to receive from the improvements;
(iii) designates the date and time by which the fully executed consent form is required to be submitted to the local entity; and
(iv)
(A) appoints a trustee that satisfies the requirements described in Section 57-1-21;
(B) gives the trustee the power of sale; and
(C) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances.
(c)
(i) The certification of the unpaid amount described in Subsection (1)(a)(i):
(A) has no effect on the amount due plus interest, penalties, and costs or other requirements of the energy assessment as described in the energy assessment resolution or ordinance; and
(B) is required to provide for the ability of the local entity to collect the delinquent energy assessment by the sale of property in a sale for delinquent general property taxes and tax notice charges, as that term is defined in Section 59-2-1301.5, in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes.

(ii) A local entity's failure to certify an amount in accordance with Subsection (1)(a)(i) or a county treasurer's failure to include the certified amount on the property tax notice is not a defense to and does not delay, prohibit, or diminish a local entity's lien rights or authority to pursue any enforcement remedy, other than a delay in the local entity's ability to collect the delinquent energy assessment as described in Subsection (1)(c)(i)(B).

(d) Nothing in Subsection (1)(a)(i) or in Title 11, Chapter 60, Political Subdivision Lien Authority, prohibits or diminishes a local entity's authority to pursue any remedy in Subsection (1)(a)(ii).

(2) If the local entity has assigned the local entity's rights to a third-party lender under Section 11-42a-302, the local entity shall provide written instructions to the third-party lender as to which method of enforcement the third-party lender shall pursue.

(3) Except as otherwise provided in this chapter, each tax sale under Subsection (1)(a)(ii)(B) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale were for the sale of property for delinquent general property taxes.

(4)

(a) In a foreclosure under Subsection (1)(a)(ii)(C):

(i) the local entity may bid at the sale;

(ii) if no one bids at the sale and pays the local entity the amount due on the assessment, plus interest and costs, the property is considered sold to the local entity for those amounts; and

(iii) the local entity's chief financial officer may substitute and appoint one or more successor trustees, as provided in Section 57-1-22.

(b)

(i) The local entity shall disclose the designation of a trustee under Subsection (4)(a)(ii) in the notice of default that the trustee gives to commence the foreclosure.

(ii) The local entity is not required to disclose the designation of a trustee under Subsection (4)(a)(ii) in an instrument separate from the notice described in Subsection (4)(b)(i).

(5)

(a) The redemption of property that is the subject of a tax sale under Subsection (1)(b) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

(b) The redemption of property that is the subject of a foreclosure proceeding under Subsection (1)(a)(ii)(C) is governed by Title 57, Chapter 1, Conveyances.

(6) The remedies described in this part for the collection of an assessment and the enforcement of an energy assessment lien are cumulative, and the use of one or more of those remedies does not deprive the local entity of any other available remedy, means of collecting the assessment, or means of enforcing the energy assessment lien.

Amended by Chapter 197, 2018 General Session

11-42a-304 Default in the payment of an installment of an assessment -- Interest and costs -- Restoring the property owner to the right to pay installments.

(1) If an assessment is payable in installments and a default occurs in the payment of an installment when due:

(a) the local entity may:

(i) declare the delinquent amount to be immediately due and subject to collection as provided in this chapter;

(ii) if the financed improvements are not completed by the completion deadline to which the property owner agreed in the bond or financing documents, then within 60 days after the completion deadline, accelerate payment of the total unpaid balance of the assessment and

declare the whole of the unpaid principal and the interest then due to be immediately due and payable; and

(iii) charge and collect all costs of collection, including attorney fees; and

(b) except as provided in Subsection (1)(a)(ii), the local entity may not accelerate payment of the total unpaid balance of the assessment.

(2) Delinquency interest accrues from the date of delinquency on all applicable amounts described in Subsection (1)(a) until the property owner pays the delinquency in full.

(3) A local entity shall ensure that any interest that the local entity assesses under this section and any collection costs that the local entity charges under this section are the same as for delinquent real property taxes for the year in which the balance of the fee or charge becomes delinquent unless the local entity determines otherwise.

(4) Notwithstanding Subsection (1), a property owner may regain the right to pay an assessment in installments as if no default had occurred if the owner pays the amount of all unpaid installments that are past due with interest, collection and foreclosure costs, and administrative, redemption, and other fees, including attorney fees, before:

(a) the final date that payment may be legally made under a final sale or foreclosure of property to collect delinquent assessment installments, if the governing body enforces collection under Title 59, Chapter 2, Part 13, Collection of Taxes; or

(b) the end of the three-month reinstatement period provided in Section 57-1-31, if the governing body enforces collection through the method of foreclosing trust deeds.

Enacted by Chapter 470, 2017 General Session

11-42a-305 Release and discharge of energy assessment lien -- Notice of dissolution of energy assessment area.

(1)

(a) Upon payment in full of an assessment on a parcel of property, the local entity or third-party lender, in the event the local entity has assigned the energy assessment lien to the third-party lender, shall file a release and discharge of the energy assessment lien on the property in the office of the recorder of the county where the property is located.

(b) The local entity or third-party lender shall ensure that each release and discharge under Subsection (1)(a):

(i) includes a legal description of the affected property; and

(ii) complies with other applicable requirements for recording a document.

(2)

(a) Upon payment in full of all assessments levied within an energy assessment area, or upon providing for payment in full, the local entity or third-party lender, in the event the local entity has assigned the energy assessment lien to the third-party lender, shall file a notice of the dissolution of the energy assessment area in the office of the recorder of the county where the property within the energy assessment area is located.

(b) The local entity or third-party lender shall ensure that each notice under Subsection (2)(a):

(i) includes a legal description of the property assessed within the energy assessment area; and

(ii) complies with all other applicable requirements for recording a document.

Enacted by Chapter 470, 2017 General Session

Part 4
Energy Assessment Bonds and Refunding Assessment Bonds

11-42a-401 Local entity may authorize the issuance of energy assessment bonds -- Limit on amount of bonds -- Features of energy assessment bonds.

(1) A local entity may, subject to the requirements of this chapter, authorize the issuance of a bond to pay, refinance, or reimburse the costs of improvements in an energy assessment area, and other related costs, against the funds that the local entity will receive because of an assessment in an energy assessment area.
(2) A local entity may, by adoption of a parameters resolution, delegate to one or more officers of the issuer the authority to:
(a) in accordance with the parameters resolution, approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and
(b) approve and execute all documents relating to the issuance of a bond.
(3) The aggregate principal amount of a bond authorized under Subsection (1) may not exceed:
(a) the unpaid balance of assessments at the time the bond is issued; or
(b) the total costs of the improvements to be refinanced or reimbursed if the property owner incurred the costs of improvements to be refinanced or reimbursed no earlier than three years before the date on which the local entity:
(i) adopted a parameters resolution;
(ii) adopted an energy assessment resolution or ordinance; or
(iii) assigned the energy assessment lien.
(4) The issuer of an energy assessment bond issued under this section shall ensure that:
(a) the energy assessment bond:
(i) is fully negotiable for all purposes;
(ii) matures at a time that does not exceed the period that installments of assessments in the assessment area are due and payable, plus one year;
(iii) is issued in registered form as provided in Title 15, Chapter 7, Registered Public Obligations Act;
(iv) provides that interest be paid semiannually, annually, or at another interval as specified by the governing body; and
(v) is not dated earlier than the effective date of the assessment ordinance; and
(b) the resolution authorizing the issuance of the bond defines the place where the bond is payable, the form of the bond, and the manner in which the bond is sold.
(5)
(a) A local entity may:
(i)
(A) provide that an energy assessment bond may be called for redemption before maturity; and
(B) fix the terms and conditions of redemption, including the notice to be given and any premium to be paid;
(ii) subject to Subsection (5)(b), require an energy assessment bond to bear interest at a fixed or variable rate, or a combination of fixed and variable rates;
(iii) specify the terms and conditions under which:
(A) an energy assessment bond bearing interest at a variable interest rate may be converted to bear interest at a fixed interest rate; and

(B) the local entity agrees to repurchase the bonds;
(iv) engage a remarketing agent and indexing agent, subject to the terms and conditions to which the governing body agrees; and
(v) include all costs associated with an energy assessment bond, including any costs resulting from any of the actions the local entity is authorized to take under this section, in an assessment levied under Section 11-42a-203.
(b) If an energy assessment bond carries a variable interest rate, the local entity shall specify:
(i) the basis upon which the variable rate is to be determined over the life of the bond;
(ii) the manner in which and schedule upon which the rate is to be adjusted; and
(iii) a maximum rate that the bond may carry.
(6) A local entity may only use the proceeds of an energy assessment bond to refinance or reimburse costs of improvements authorized under this chapter if the property owner incurred the costs no earlier than three years before the date on which the local entity:
(a) adopted a parameters resolution;
(b) adopted an energy assessment resolution or ordinance; or
(c) assigned the energy assessment lien.

Amended by Chapter 431, 2018 General Session

11-42a-402 Energy assessment bond not a local entity's general obligation -- Liability and responsibility of a local entity issuing an energy assessment bond -- No state liability.
(1)
(a) An energy assessment bond that a local entity issues under this chapter:
(i) is a limited obligation of the local entity; and
(ii) does not constitute nor give rise to:
(A) a general obligation or liability of the local entity or the state; or
(B) a charge against the general credit or taxing powers of the local entity or the state.
(b) The local entity shall ensure that the limitation described in Subsection (1)(a) is plainly stated upon the face of the bond.
(c) The assessments and the property upon which the energy assessment lien is recorded are the sole securities for an energy assessment bond.
(2)
(a) A local entity that issues an energy assessment bond is not liable and may not obligate itself for payment of the bond, except for a fund that the local entity creates and receives from assessments against which the bond is issued.
(b) Unless otherwise provided in this chapter, a local entity that issues an energy assessment bond is responsible for:
(i) the lawful levy of all assessments; and
(ii) the faithful accounting, collection, settlement, and payment of assessments.

Enacted by Chapter 470, 2017 General Session

11-42a-403 Refunding assessment bonds.
(1) A local entity may, by a resolution adopted by the governing body, authorize the issuance of a refunding assessment bond as provided in this section, to repay prior bonds in whole or in part, whether at or before the maturity of the prior bonds, at stated maturity, upon redemption, or upon declaration of maturity.
(2)

(a) Subject to Subsection (2)(b), the issuance of a refunding assessment bond is governed by Title 11, Chapter 27, Utah Refunding Bond Act.
(b) If there is a conflict between a provision of Title 11, Chapter 27, Utah Refunding Bond Act, and a provision of this part, the provision of this part governs.
(3) In issuing a refunding assessment bond, the local entity shall require the refunding assessment bond and interest on the bond to be payable from and secured, to the extent the prior bonds were payable from and secured, by:
(a) the same assessments; or
(b) the reduced assessments adopted by the governing body under Section 11-42a-404.
(4) A refunding assessment bond:
(a) is payable solely from the sources described in Subsection (3);
(b) matures no later than one year after the date of final maturity of the prior bonds;
(c) does not mature at a time or bear interest at a rate that will cause the local entity to be unable to pay the bond when due from the sources listed in Subsection (3);
(d) bears interest as the governing body determines and subject to the provisions relating to interest in Section 11-42a-401; and
(e) pays one or more issues of the issuing local entity's prior bonds.
(5) If the bond refunds two or more issues of a local entity's prior bonds, the local entity may issue the bond in one or more series.

Enacted by Chapter 470, 2017 General Session

11-42a-404 Reducing assessments after issuance of refunding assessment bonds -- Retroactive effect.
(1) Each local entity that issues a refunding assessment bond shall adopt a resolution or ordinance amending the previously adopted energy assessment resolution or ordinance that:
(a) reduces, as determined by the local entity's governing body:
(i) the assessments levied under the previous resolution or ordinance;
(ii) the interest payable on the assessments levied under the previous resolution or ordinance; or
(iii) both the assessments levied under the previous resolution or ordinance and the interest payable on those assessments;
(b) allocates the reductions under Subsection (1)(a) so the then unpaid assessments levied against benefitted property within the assessment area and the unpaid interest on those assessments receive a proportionate share of the reductions;
(c) states the amounts of the reduced payment obligation for each property assessed in the prior resolution or ordinance; and
(d) states the effective date of any reduction in the assessment levied in the prior resolution or ordinance.
(2) In a resolution or ordinance described in Subsection (1), the local entity is not required to describe each block, lot, part of a block or lot, tract, or parcel of property assessed.
(3) The local entity shall ensure that each reduction under Subsection (1)(a) is equal to the amount by which the principal, interest, or combined principal and interest payable on the refunding assessment bond, after accounting for incidental refunding costs associated with the refunding assessment bond, is less than the amount of principal, interest, or combined principal and interest payable on the prior bonds.
(4) A reduction under Subsection (1)(a) does not apply to an assessment or interest paid before the reduction.

(5) A resolution or ordinance under Subsection (1) may not become effective before the date when any principal, interest, redemption premium on the prior bonds, and advances under Subsection 11-42-607(5)(a) are fully paid or legally considered to be paid.
(6) Except for the amount of reduction to a prior assessment or interest on a prior assessment, neither the issuance of a refunding assessment bond nor the adoption of a resolution or ordinance under Subsection (1) affects:
(a) the validity or continued enforceability of a prior assessment or interest on the assessment; or
(b) the validity, enforceability, or priority of an energy assessment lien.
(7) Each reduction of a prior assessment and the interest on the assessment continues to exist in favor of the refunding assessment bonds.
(8) Even after payment in full of the prior bonds that a refunding assessment bond refunds, an energy assessment lien continues to exist to secure payment of:
(a) the reduced payment obligations;
(b) the penalties and costs of collection of those obligations; and
(c) the refunding assessment bond.
(9) A lien securing a reduced payment obligation from which a refunding assessment bond is payable and by which the bond is secured is subordinate to an energy assessment lien that secures the original or prior assessment and prior bonds until the prior bonds are paid in full or legally considered to be paid in full.
(10) Unless prior bonds are paid in full simultaneously with the issuance of a refunding assessment bond, the local entity shall:
(a) irrevocably set aside the proceeds of the refunding assessment bond in an escrow or other separate account; and
(b) pledge the account described in Subsection (10)(a) as security for the payment of the prior bonds, the refunding assessment bond, or both.
(11) This part applies to any refunding assessment bond:
(a) regardless of whether the local entity already issued the bond; and
(b) regardless of whether the local entity issued the prior bonds that the bond refunded under prior law and regardless of whether that law is currently in effect.

Enacted by Chapter 470, 2017 General Session

Chapter 42b
Convention and Tourism Business Assessment Area Act

11-42b-101 Definitions.

As used in this chapter:
(1) "Assessment" means the assessment that a specified county levies on benefitted properties under this chapter to pay for beneficial activities.
(2) "Assessment area" means a convention and tourism business assessment area designated under this chapter.
(3)
(a) "Beneficial activity" means any activity or service that increases hotel room rates or occupancy levels at lodging establishments.
(b) "Beneficial activity" includes an activity to:

(i) promote tourism;
(ii) sponsor or incentivize a cultural or sports event, festival, conference, or convention;
(iii) facilitate economic or workforce development for the lodging industry, including workforce recruitment or retention; or
(iv) promote placemaking, visitor management, or destination enhancement.
(4) "Benefitted property" means a lodging establishment that directly or indirectly benefits from a beneficial activity.
(5) "Guest" means an individual for whom a lodging establishment provides lodging accommodations for compensation.
(6) "Lodging establishment" means the same as that term is defined in Section 29-2-102.
(7) "Municipality" means a city, town, or metro township.
(8) "Owner" means the owner of a benefitted property, or the authorized agent or employee of the owner.
(9) "Qualified number of owners" means a number of owners of benefitted properties that represents 60% or more of the total assessment amount levied against all benefitted properties within a proposed or existing assessment area, provided that if an owner of one or more benefitted properties represents 40% or more of the total assessment amount levied against all benefitted properties within a proposed or existing assessment area, no more than 40% of the total assessment amount shall be attributed to that owner.
(10) "Specified county" means a county of the first or second class.
(11) "Third party administrator" means a private nonprofit organization, primarily engaged in destination marketing and promotion, that enters into a contract with a specified county to provide beneficial activities within an assessment area in accordance with the management plan.

Enacted by Chapter 376, 2022 General Session

11-42b-102 Designating an assessment area -- Levying and paying an assessment - Requirements and prohibitions.

(1) Subject to the requirements of this part, the legislative body of a specified county intending to levy an assessment on benefitted properties to pay for beneficial activities shall adopt an ordinance or resolution designating an assessment area.
(2) A specified county that levies an assessment under this chapter for beneficial activities:
(a) shall:
(i) levy an assessment on each benefitted property within the assessment area;
(ii) use an assessment method that, when applied to a benefitted property, reflects an equitable portion of the benefit the benefitted property will receive for the beneficial activities for which the assessment is levied;
(iii) levy and collect an assessment in accordance with a management plan that meets the requirements of Subsection 11-42b-103(2)(a); and
(iv) contract with a third party administrator to implement beneficial activities within the assessment areas;
(b) may:
(i) levy an assessment only on lodging establishments located within the geographical boundaries of the specified county;
(ii) establish benefit zones that divide the assessment area into multiple types or classifications to:
(A) levy a different level of assessment; or

(B) use a different assessment method in each classification to reflect more fairly the benefits that property within the different types or classifications is expected to receive because of the proposed beneficial activities;

(iii) rely on estimated benefits from an increase in:

(A) retail sales rates;

(B) customer base;

(C) public perception;

(D) hotel room rates and occupancy levels;

(E) the commercial environment from enhanced services;

(F) another articulable method of estimating benefits; or

(G) a combination of the methods described in Subsections (2)(b)(iii)(A) through (F); and

(iv) may not:

(A) include, within an assessment area, any area of land that is included within the geographic boundaries of a municipality unless the legislative body of the municipality adopts an ordinance or resolution consenting to the municipality's inclusion in the assessment area; or

(B) levy an assessment for a period longer than 10 years, unless the assessment area is renewed in accordance with Section 11-42b-109.

(3) The legislative body of a specified county may not adopt a designation ordinance or resolution under Subsection (1) unless the legislative body:

(a) receives a petition that meets the requirements of Section 11-42b-103;

(b) gives notice as provided in Section 11-42b-104;

(c) receives and considers all protests filed under Section 11-42b-105;

(d) holds a public hearing as provided in Section 11-42b-106; and

(e) holds a public meeting as provided in Section 11-42b-107.

(4)

(a) The owner of a benefitted property that pays an assessment under this chapter may place the assessment as a mandatory surcharge on guest receipts.

(b) A surcharge under this Subsection (4):

(i) shall be disclosed on all information and communication platforms of the benefitted property in the same manner as other surcharges, hotel and occupancy taxes, and sales and use taxes as required by applicable laws and regulations; and

(ii) may not:

(A) be used to calculate a benefitted property's gross receipts or gross revenues for any purpose, including the calculation of sales revenue, occupancy taxes, or state income taxes; or

(B) be considered as part of income pursuant to any lease or operator agreement.

(5) The payment of an assessment under this chapter may not be taken as a deduction from income for state income tax purposes.

Enacted by Chapter 376, 2022 General Session

11-42b-103 Petition to designate assessment area -- Requirements -- Management plan contents.

(1) The process for a specified county to designate an assessment area is initiated by the filing of a petition with the legislative body of the specified county.

(2) A petition under Subsection (1) shall:

(a) include a proposed management plan that:

(i) describes:
(A) the boundaries and duration of the proposed assessment area;
(B) each benefitted property proposed to be assessed;
(C) the total estimated amount of assessment to be levied against all benefitted properties for each year an assessment is levied;
(D) the method by which the proposed assessment is calculated;
(E) the beneficial activities to be paid by assessments for each year an assessment is levied;
(F) the total estimated amount of assessment to be expended on beneficial activities for each year an assessment is levied;
(G) the proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each owner of benefitted property to calculate the amount of the assessment to be levied against the owner's benefitted property;
(H) any proposed benefit zones as described in Subsection 11-42b-102(2)(b)(ii); and
(I) the interest, penalties, and costs or other requirements of the proposed assessment;
(ii) establishes procedures for collecting the proposed assessment;
(iii) requires the legislative body to contract with a third party administrator to implement the proposed beneficial activities within the assessment area; and
(iv) includes a statement regarding the right of a benefitted property to impose a surcharge on guests of the benefitted property as provided in Subsection 11-42b-102(4); and
(b) be signed by a qualified number of owners.

Amended by Chapter 139, 2023 General Session

11-42b-104 Notice of proposed assessment area -- Requirements.
(1) If the legislative body of a specified county receives a petition that meets the requirements of Section 11-42b-103, the legislative body shall give notice of the proposed assessment area.
(2) The notice under Subsection (1) shall:
(a) include the following information:
(i) a statement that the legislative body received a petition to designate an assessment area under Section 11-42b-103;
(ii) a statement that the specified county proposes to:
(A) designate one or more areas within the specified county's geographic boundaries as an assessment area;
(B) contract with a third party administrator to provide beneficial activities within the proposed assessment area; and
(C) finance some or all of the cost of providing beneficial activities by an assessment on benefitted properties within the assessment area;
(iii) a summary of the contents of the proposed management plan, including the information described in Subsection 11-42b-103(2)(a)(i);
(iv) a statement explaining how an individual can access the petition described in Subsection (2)(a), including the contents of the proposed management plan;
(v) a statement that contains:
(A) the date described in Section 11-42b-105 and the location at which a protest under Section 11-42b-105 may be filed;
(B) the method by which the legislative body will determine the number of protests required to defeat the designation of the proposed assessment area or implementation of the proposed beneficial activities, subject to Subsection 11-42b-107(1)(b); and

(C) a statement in large, boldface, and conspicuous type explaining that an owner of a benefitted property must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed beneficial activities;

(vi) the date, time, and place of the public hearing required in Section 11-42b-106; and

(vii) any other information the legislative body considers appropriate; and

(b) be published for the proposed assessment area, as a class B notice under Section 63G-30-102, for at least 20 days, but not more than 35 days, before the day of the hearing required in Section 11-42b-105.

(3)

(a) The legislative body may record the version of the notice that is published or posted in accordance with Subsection (2)(b) with the office of the county recorder.

(b) The notice recorded under Subsection (3)(a) expires and is no longer valid one year after the day on which the legislative body records the notice if the legislative body has failed to adopt the designation ordinance or resolution under Section 11-42b-102 designating the assessment area for which the notice was recorded.

Amended by Chapter 435, 2023 General Session

11-42b-105 Protests.

(1) An owner of a benefitted property that is proposed to be assessed and who does not want the benefitted property to be included in the assessment area may, within 30 days after the day of the hearing described in Section 11-42b-106, file a written protest with the legislative body:

(a) against:

(i) the designation of an assessment area;

(ii) the inclusion of the owner's benefitted property in the proposed assessment area; or

(iii) the proposed beneficial activities to be implemented; or

(b) protesting:

(i) whether the assessment meets the requirements of Section 11-42b-102; or

(ii) any other aspect of the proposed designation of an assessment area.

(2) Each protest under Subsection (1) shall:

(a) describe or otherwise identify the benefitted property owned by the person filing the protest; and

(b) include the signature of the owner of the benefitted property.

(3) An owner subject to assessment may withdraw a protest at any time before the expiration of the 30-day period described in Subsection (1) by filing a written withdrawal with the legislative body.

(4) If the legislative body intends to assess benefitted properties within the proposed assessment area by establishing benefit zones, as described in Subsection 11-42b-102(2)(b)(ii), and the legislative body has clearly noticed the legislative body's intent, the legislative body shall:

(a) in determining whether adequate protests have been filed, aggregate the protests by the type of beneficial activity or by classification; and

(b) apply to and calculate for each type of beneficial activity or classification the threshold requirements of adequate protests.

(5) The failure of an owner of a benefitted property within the proposed assessment area to file a timely written protest constitutes a waiver of any objection to:

(a) the designation of the assessment area;

(b) any beneficial activity to be implemented within the assessment area;

(c) the inclusion of the owner's benefitted property within the assessment area; and
(d) the fact, but not amount, of benefit to the owner's benefitted property.
(6) The legislative body shall post the total and percentage of the written protests the legislative body receives under this section on the legislative body's website, or, if no website is available, at the legislative body's place of business at least five days before the public meeting described in Section 11-42b-106.

Enacted by Chapter 376, 2022 General Session

11-42b-106 Public hearing.
(1) On the date and at the time and place specified in the notice under Section 11-42b-104, the legislative body shall hold a public hearing.
(2)
(a) The legislative body:
(i) subject to Subsection (2)(a)(ii), may continue the public hearing from time to time to a fixed future date and time; and
(ii) may not hold a public hearing that is a continuance less than five days before the deadline for filing protests described in Section 11-42b-105.
(b) The continuance of a public hearing does not restart or extend the protest period described in Subsection 11-42b-105.
(3) At the public hearing, the legislative body shall hear all:
(a) objections to the designation of the proposed assessment area or the beneficial activities proposed to be implemented within the assessment area;
(b) objections to whether the assessment will meet the requirements of Section 11-42b-102; and
(c) persons desiring to be heard.

Enacted by Chapter 376, 2022 General Session

11-42b-107 Public meeting -- Adoption of ordinance or resolution regarding proposed assessment area -- Limitations.
(1)
(a) After holding a public hearing under Section 11-42b-106 and within 90 days after the day that the protest period expires in accordance with Section 11-42b-105, the legislative body shall:
(i) count the written protests filed or withdrawn in accordance with Section 11-42b-105 and calculate whether adequate protests have been filed; and
(ii) hold a public meeting to announce the protest tally and whether adequate protests have been filed.
(b) Adequate protests are filed under Subsection (1)(a) if protests have been filed by a qualified number of owners.
(c) If adequate protests are not filed, the legislative body at the public meeting may adopt a resolution or ordinance:
(i) abandoning the proposal to designate an assessment area; or
(ii)
(A) designating an assessment area; and
(B) approving a management plan as proposed under Section 11-42b-103, or with changes under Subsection (1)(e).
(d) If adequate protests are filed, the legislative body at the public meeting:
(i) may not adopt a resolution or ordinance designating the assessment area; and

(ii) may adopt a resolution or ordinance to abandon the proposal to designate the assessment area.

(e) In the absence of adequate protests upon the expiration of the protest period and subject to Subsection (1)(e)(ii), the legislative body may make changes to:

(i) a beneficial activity proposed for implementation under the proposed management plan; or

(ii) the area or areas proposed to be included within the assessment area under the proposed management plan.

(2) A legislative body may not make a change in accordance with Subsection (1)(e)(i) if the change would result in:

(a) a change in the nature of a beneficial activity or reduction in the estimated amount of benefit to a benefitted property, whether in size, quality, or otherwise, than that described in the proposed management plan;

(b) an estimated total assessment to any benefitted business within the assessment area that exceeds the estimate described in the proposed management plan; or

(c) a financing term that extends beyond the estimated term of financing under the proposed management plan.

(3) After the adoption of an ordinance or resolution described in Subsection (1)(c)(ii), the legislative body may contract with a third party administrator to provide beneficial activities within the assessment area.

Enacted by Chapter 376, 2022 General Session

11-42b-108 Amendments to management plan -- Procedure -- Notice requirements.

(1) After the legislative body adopts an ordinance or resolution approving a management plan as provided in Subsection 11-42b-107(1)(c)(ii) and contracts with a third party administrator to provide beneficial activities within the assessment area, the legislative body may amend the management plan if:

(a) the third party administrator submits to the legislative body a written request for amendments;

(b) subject to Subsection (2), the legislative body gives notice of the proposed amendments;

(c) the legislative body holds a public meeting no more than 90 days after the day on which the legislative body gives notice under Subsection (1)(b); and

(d) at the public meeting described in Subsection (1)(c), the legislative body adopts an ordinance or resolution approving the amendments to the management plan.

(2) The notice described in Subsection (1)(b) shall:

(a) describe the proposed amendments to the management plan;

(b) state the date, time, and place of the public meeting described in Subsection (1)(c); and

(c) be published for the assessment area, as a class B notice under Section 63G-30-102, for at least 20 days, but not more than 35 days, before the day of the public meeting described in Subsection (1)(c).

Amended by Chapter 435, 2023 General Session

11-42b-109 Renewal of assessment area designation -- Procedure -- Disposition of previous revenues -- Notice requirements.

(1) Upon the expiration of an assessment area, the legislative body may, for a period not to exceed 10 years, renew the assessment area as provided in this section.

(2)

(a) If there are no changes to the management plan or the designation of the third party administrator, the legislative body may not renew the assessment area unless:
(i) subject to Subsection (2)(c), the legislative body gives notice of the proposed renewal;
(ii) the legislative body holds a public meeting no more than 90 days after the day on which the legislative body gives notice under Subsection (2)(a)(i); and
(iii) at the public meeting described in Subsection (2)(a)(ii), the legislative body adopts an ordinance or resolution renewing the assessment area designation.
(b) If there are changes to the management plan or the designation of the third party administrator, the legislative body may not renew the assessment area unless the legislative body:
(i) gives notice of the proposed renewal in accordance with Section 11-42b-104;
(ii) receives and considers all protests filed under Section 11-42b-105;
(iii) holds a public hearing as provided in Section 11-42b-106;
(iv) holds a public meeting as provided in Section 11-42b-107; and
(v) at the public meeting described in Subsection (2)(b)(iv), adopts an ordinance or resolution renewing the assessment area.
(c) The notice described in Subsection (2)(a)(i) shall:
(i) state:
(A) that the legislative body proposes to renew the assessment area with no changes; and
(B) the date, time, and place of the public meeting described in Subsection (2)(a)(ii); and
(ii) be published for the assessment area, as a class B notice under Section 63G-30-102, for at least 20 days, but not more than 35 days, before the day of the public meeting described in Subsection (2)(a)(ii).
(3)
(a) Upon renewal of an assessment area, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed assessment area.
(b) If the renewed assessment area includes a benefitted property that was not included in the previous assessment area, the third party administrator may only expend revenues described in Subsection (3)(a) on benefitted properties that were included in the previous assessment area.
(c) If the renewed assessment area does not include a benefitted property that was included in the previous assessment area, the third party administrator shall refund to the owner of the benefitted property the revenues described in Subsection (3)(a) attributable to the benefitted property.

Amended by Chapter 435, 2023 General Session

11-42b-110 Dissolution of assessment area -- Procedure -- Disposition of revenues -- Notice requirements.
(1) The legislative body may dissolve an assessment area before the assessment area expires as provided in this section.
(2) The legislative body may not dissolve an assessment area under Subsection (1) unless:
(a)
(i) the legislative body determines there has been a misappropriation of funds, malfeasance, or a violation of law in connection with the management of the assessment area; or
(ii) a petition to dissolve the assessment area:
(A) is signed by a qualified number of owners; and

(B) is submitted to the legislative body within the period described in Subsection (3);
(b) subject to Subsection (4), the legislative body gives notice of the proposed dissolution;
(c) the legislative body holds a public meeting; and
(d) at the public meeting described in Subsection (2)(c), the legislative body adopts an ordinance or resolution dissolving the assessment area.
(3) The owners of benefitted properties may submit to the legislative body a petition described in Subsection (2)(a)(ii):
(a) within a 30-day period that begins after the day on which the assessment area is designated by ordinance or resolution under Section 11-42b-107; or
(b) within the same 30-day period during each subsequent year in which the assessment area exists.
(4) The notice described in Subsection (2)(b) shall:
(a) state:
(i) the reasons for the proposed dissolution; and
(ii) the date, time, and place of the public meeting described in Subsection (2)(c); and
(b) be published for the assessment area, as a class B notice under Section 63G-30-102, for at least 20 days, but not more than 35 days, before the day of the public meeting described in Subsection (2)(c).
(5) Upon the dissolution of an assessment area, the third party administrator shall return to the owner of each benefitted property any remaining revenues attributable to the benefitted property.

Amended by Chapter 435, 2023 General Session

11-42b-111 Action to contest assessment or proceeding.
(1) A person who contests an assessment or any proceeding to designate an assessment area may commence a civil action against the specified county to:
(a) set aside a proceeding to designate an assessment area; or
(b) enjoin the levy or collection of an assessment.
(2) A person bringing an action under Subsection (1) shall bring the action in the district court with jurisdiction in the specified county.
(3)
(a) Except as provided in Subsection (3)(b), a person may not begin the action against or serve a summons relating to the action on the specified county more than 30 days after:
(i) the effective date of the designation ordinance or resolution adopted under Section 11-42b-107, if the action relates to the designation of an assessment area or the levying of an assessment; or
(ii) the effective date of the ordinance or resolution adopted under Section 11-42b-108, if the action relates to the levying of an assessment under an amended management plan.
(b) If each benefitted property within an assessment area consents to the designation of the assessment area and the levying of an assessment, or if each benefitted property within an assessment area consents to the amendments to the management plan, as applicable, a person may not bring an action against or serve a summons relating to the action on the specified county more than 15 days after:
(i) the effective date of the designation ordinance or resolution adopted under Section 11-42b-107, if the action relates to the designation of an assessment area or the levying of an assessment; or

(ii) the effective date of the ordinance or resolution adopted under Section 11-42b-108, if the action relates to the levying of an assessment under an amended management plan.

(4) An action under Subsection (1) is the exclusive remedy of a person who contests an assessment or any proceeding to designate an assessment area.

(5) A court may not set aside, in part or in whole or declare invalid an assessment, a proceeding to designate an assessment area, or a proceeding to levy an assessment that meets the requirements of Section 11-42b-102 because of an error or irregularity that does not relate to the equity or justice of the assessment or proceeding.

(6)

(a) A person may bring a claim of misuse of assessment funds through a mandamus action regardless of the expiration of the period for bringing an action under Subsection (3).

(b) This section does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

Enacted by Chapter 376, 2022 General Session

11-42b-112 No limitation on other county powers.

(1) This chapter does not limit a power that a specified county has under other applicable law to:

(a) make an improvement or provide a service;

(b) create a district;

(c) levy an assessment or tax; or

(d) issue a bond or a refunding bond.

(2) If there is a conflict between a provision of this chapter and any other statutory provision, the provision of this chapter governs.

Enacted by Chapter 376, 2022 General Session

11-42b-113 Severability.

A court's invalidation of any provision of this chapter does not affect the validity of any other provision of this chapter.

Enacted by Chapter 376, 2022 General Session

Chapter 43
Memorials and Public Land

11-43-101 Title.

This chapter is known as the "Memorials and Public Land Act."

Enacted by Chapter 118, 2007 General Session

11-43-102 Memorials by political subdivisions.

(1) As used in this section:

(a) "Political subdivision" means any county, city, town, or school district.

(b) "Political subdivision" does not include a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(2) A political subdivision may authorize the use or donation of the political subdivision's land for the purpose of maintaining, erecting, or contributing to the erection or maintenance of a memorial to commemorate those individuals who have:

(a) participated in or have given their lives in any of the one or more wars or military conflicts in which the United States of America has been a participant; or

(b) given their lives in association with public service on behalf of the state or the political subdivision, including firefighters, peace officers, highway patrol officers, or other public servants.

(3) The use or donation of a political subdivision's land in relation to a memorial described in Subsection (2) may include:

(a) using or appropriating public funds for the purchase, development, improvement, or maintenance of public land on which a memorial is located or established;

(b) using or appropriating public funds for the erection, improvement, or maintenance of a memorial;

(c) donating or selling public land for use in relation to a memorial; or

(d) authorizing the use of a political subdivision's land for a memorial that is funded or maintained in part or in full by another public or private entity.

(4) The political subdivision may specify the form, placement, and design of a memorial that is subject to this section.

Amended by Chapter 16, 2023 General Session

Chapter 44
Performance Efficiency Act

Part 1
General Provisions

11-44-101 Title.

This chapter is known as the "Performance Efficiency Act."

Amended by Chapter 181, 2015 General Session

11-44-102 Definitions.

As used in this chapter:

(1) "Alternative fuel vehicle" means a motor vehicle that is not powered exclusively by a petroleum fuel source.

(2) "Cost savings" means a decrease in an expenditure, including a future replacement expenditure, by a political subdivision resulting from a performance efficiency measure adopted under this chapter.

(3)

(a) "Facility" means a building, structure, or other improvement that is constructed on property owned by a political subdivision.

(b) "Facility" does not mean a privately owned structure that is located on property owned by a political subdivision.

(4) "Performance efficiency agreement" means an agreement between a political subdivision and a qualified performance efficiency service provider for evaluation, recommendation, and implementation of one or more performance efficiency measures.

(5)

(a) "Performance efficiency measure" means an action taken by a political subdivision that reduces the political subdivision's:

(i) energy consumption;

(ii) water use;

(iii) sewage use; or

(iv) operation and maintenance costs.

(b) "Performance efficiency measure" includes:

(i) insulation installed in a wall, roof, floor, foundation, or heating and cooling distribution system;

(ii) a storm window or door, multiglazed window or door, heat absorbing or heat reflective glazed and coated window or door system, additional glazing, or reduction in glass area;

(iii) an automatic energy control system;

(iv) a heating, ventilating, or air conditioning and distribution system modification or replacement in a facility;

(v) caulking and weatherstripping;

(vi) a replacement or modification of a lighting fixture to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility unless the increase in illumination is necessary to conform to the applicable building code for the proposed lighting system;

(vii) an energy recovery system;

(viii) a cogeneration system that produces steam or another form of energy for use primarily within a facility;

(ix) a renewable energy or alternate energy system;

(x) a change in operation or maintenance practice;

(xi) a procurement of a low-cost energy supply, including electricity, natural gas, or water;

(xii) an indoor air quality improvement that conforms to applicable building code requirements;

(xiii) a daylighting system;

(xiv) a building operation program that provides cost savings, including computerized energy management and consumption tracking programs or staff and occupant training;

(xv) a service to reduce utility costs by identifying utility errors and optimizing rate schedules; or

(xvi) the purchase and operation of an alternative fuel vehicle and the infrastructure to support the operation of alternative fuel vehicles.

(6) "Performance efficiency program" means a program established by a political subdivision under this chapter to adopt a performance efficiency measure.

(7) "Qualified performance efficiency service provider" means a person who:

(a) has a record of successful performance efficiency agreements; or

(b) has:

(i) experience in the design, implementation, and installation of performance efficiency measures;

(ii) technical capabilities to ensure that a performance efficiency measure generates cost savings; and

(iii) the ability to secure the financing necessary to support the proposed performance efficiency measure.

Amended by Chapter 181, 2015 General Session

Part 2
Performance Efficiency Programs and Agreements

11-44-201 Political subdivision responsibilities -- State responsibilities.

(1) A political subdivision may:

(a) enter into a performance efficiency agreement;

(b) develop and administer a performance efficiency program;

(c) analyze energy consumption by the political subdivision;

(d) designate a staff member who is responsible for a performance efficiency program; and

(e) provide the governing body of the political subdivision with information regarding the performance efficiency program.

(2) The following entities may provide information, technical resources, and other assistance to a political subdivision acting under this chapter:

(a) the Utah Geological Survey, created in Section 79-3-201;

(b) the State Board of Education;

(c) the Division of Purchasing and General Services, created in Section 63A-2-101; and

(d) the Division of Facilities Construction and Management, created in Section 63A-5b-301.

Amended by Chapter 152, 2020 General Session

11-44-202 Types of agreements.

Notwithstanding Section 63G-6a-1205, a political subdivision shall structure a performance efficiency agreement as a guaranteed performance efficiency agreement, which shall include:

(1) the design and installation of a performance efficiency measure, if applicable;

(2) operation and maintenance of a performance efficiency measure implemented; and

(3) guaranteed annual cost savings that meet or exceed the total annual agreement payments by the political subdivision under the agreement, including financing charges incurred by the political subdivision over the life of the agreement.

Amended by Chapter 181, 2015 General Session

11-44-203 Length of agreements.

A political subdivision may only enter into a performance efficiency agreement for more than one year if the political subdivision finds that the amount the political subdivision would spend on the performance efficiency measure will not exceed the amount of the cost savings over 20 years from the date of installation of the performance efficiency measure.

Amended by Chapter 181, 2015 General Session

Part 3

Qualified Performance Efficiency Service Providers

11-44-301 Selection.

(1) A political subdivision shall follow the procedures outlined in Title 63G, Chapter 6a, Utah Procurement Code, when selecting a qualified performance efficiency service provider.
(2) The Division of Purchasing shall maintain a list of qualified performance efficiency service providers.
(3) The qualified performance efficiency service provider selected from the bid process shall prepare an investment grade audit, which shall become part of the final agreement between the political subdivision and the qualified performance efficiency service provider.
(4) The audit shall include:
  (a) a detailed description of the performance efficiency measure;
  (b) an estimated cost; and
  (c) a projected cost savings.

Amended by Chapter 181, 2015 General Session

11-44-302 Annual reports.

During the term of a performance efficiency agreement, the qualified performance efficiency service provider shall submit an annual report to the political subdivision that provides the cost savings attributable to the performance efficiency measures taken by the political subdivision.

Amended by Chapter 181, 2015 General Session

Chapter 45
Loan Program for Energy Efficiency Projects

Part 1
General Provisions

11-45-101 Title.

This chapter is known as "Loan Program for Energy Efficiency Projects."

Enacted by Chapter 72, 2010 General Session

11-45-102 Definitions.

As used in this chapter:
(1) "Energy code" means the energy efficiency code adopted under Section 15A-1-204.
(2)
  (a) "Energy efficiency project" means:
    (i) for an existing building, a retrofit to improve energy efficiency; or
    (ii) for a new building, an enhancement to improve energy efficiency beyond the minimum required by the energy code.
  (b) "Energy efficiency projects" include the following expenses:
    (i) construction;

(ii) engineering;
(iii) energy audit; or
(iv) inspection.
(3) "Fund" means the Energy Efficiency Fund created in Part 2, Energy Efficiency Fund.
(4) "Office" means the Office of Energy Development created in Section 79-6-401.
(5) "Political subdivision" means a county, city, town, or school district.

Amended by Chapter 280, 2021 General Session

Part 2
Energy Efficiency Fund

11-45-201 Energy Efficiency Fund -- Creation.
(1) There is created a revolving loan fund known as the Energy Efficiency Fund.
(2) The fund shall consist of:
(a) money appropriated to it by the Legislature;
(b) money received for the repayment of loans made from the fund;
(c) money made available to the state for energy efficiency from any source; and
(d) interest earned on the fund.

Renumbered and Amended by Chapter 72, 2010 General Session

11-45-202 Criteria for loans.
(1) The office shall make a loan from the fund to a political subdivision only to finance an energy efficiency project.
(2) The office may not make a loan from the fund:
(a) to finance a political subdivision's compliance with the energy code in the construction of a new building; or
(b) with a term of less than two years or more than 12 years.

Amended by Chapter 37, 2012 General Session

11-45-203 Applications.
(1) A political subdivision shall submit an application to the office in the form and containing the information that the office requires, which shall include the plans and specifications for the proposed energy efficiency project.
(2)
(a) In the application, a political subdivision may request a loan to cover all or part of the cost of an energy efficiency project.
(b) If an application is rejected, the office shall notify the applicant stating the reasons for the rejection.

Amended by Chapter 37, 2012 General Session

11-45-204 Energy advisor to make rules establishing criteria.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules to determine:
(a) eligibility for a loan; and
(b) priorities among energy efficiency projects.
(2) When making a rule to determine priorities among energy efficiency projects, the office may consider the following:
(a) possible additional sources of revenue;
(b) feasibility and practicality of an energy efficiency project;
(c) energy savings;
(d) annual energy cost savings;
(e) projected energy cost payback;
(f) financial need of the public facility owner;
(g) environmental and other benefits to the state and local community; and
(h) availability of federal funds.

Amended by Chapter 37, 2012 General Session

11-45-205 Approval of loan by energy advisor.
(1) In approving a loan, the office shall:
(a) review the loan application, plans, and specifications for the project;
(b) determine whether or not to grant the loan by applying the office's eligibility criteria; and
(c) if the loan is granted, prioritize the energy efficiency project by applying the office's priority criteria.
(2) The office may provide conditions on a loan to ensure that:
(a) the proceeds of the loan will be used to pay the cost of the project; and
(b) the project will be completed.

Amended by Chapter 37, 2012 General Session

Chapter 46
Animal Welfare Act

Part 1
General Provisions

11-46-101 Title.
This chapter is known as the "Animal Welfare Act."

Enacted by Chapter 130, 2011 General Session

11-46-102 Definitions.
As used in this chapter:
(1)
(a) "Animal" means a cat or dog.
(b) "Animal" does not include livestock, as that term is defined in Section 4-1-109.

(2) "Animal control officer" means any person employed or appointed by a county or a municipality who is authorized to investigate violations of laws and ordinances concerning animals, to issue citations in accordance with Utah law, and to take custody of animals as appropriate in the enforcement of laws and ordinances concerning animals.
(3)
(a) "Animal shelter" means a facility or program that provides services for stray, lost, or unwanted animals, including holding and placing the animals for adoption.
(b) "Animal shelter" includes a private humane society or private animal welfare organization.
(c) "Animal shelter" does not include an institution, as that term is defined in Section 26B-1-236, that is conducting research on animals.
(4) "Person" means an individual, an entity, or a representative of an entity.

Amended by Chapter 327, 2023 General Session
Amended by Chapter 360, 2023 General Session

11-46-103 Stray animals.
(1) Each municipal or county animal control officer shall hold or cause to be held at an animal shelter any unidentified or unclaimed stray animal in safe and humane custody for a minimum of five business days after the time of impound and prior to making any final disposition of the animal.
(2) An animal shelter shall ensure that a record of each held animal is maintained that includes the:
(a) date of impound;
(b) date of disposition; and
(c) method of disposition, which may be:
(i) placement in an adoptive home or other transfer of the animal, which shall be in accordance with Part 2, Animal Shelter Pet Sterilization Act;
(ii) return to the animal's owner;
(iii) placement in a community cat program as defined in Section 11-46-302; or
(iv) euthanasia in accordance with Part 4, Euthanasia of Shelter Animals.
(3) An unidentified or unclaimed stray animal may be euthanized before the completion of the five working day minimum holding period to prevent unnecessary suffering due to serious injury or disease if the euthanasia complies with:
(a) written agency or department policies and procedures;
(b) local ordinances; and
(c)Part 4, Euthanasia of Shelter Animals.
(4) An unidentified or unclaimed stray animal shall be returned to the animal's owner upon:
(a) the establishment of proof of ownership;
(b) compliance with the requirements of applicable local ordinances; and
(c) compliance with Part 2, Animal Shelter Pet Sterilization Act.

Amended by Chapter 360, 2023 General Session

11-46-104 County tax for provision of animal welfare services.
(1) As used in this section:
(a) "County" means a county:
(i) of the second, third, fourth, fifth, or sixth class; and
(ii) in which the county is the sole provider of animal welfare services under this part.
(b) "Municipality" means a city or a town that receives animal welfare services from the county.

(2) Subject to Subsections (5) and (6), a legislative body in a county may levy annually a tax not to exceed .0002 of taxable value of taxable property in the county to provide the services described in this chapter.
(3)
(a) Except as provided in Section 17-36-31, the levy described in this section is in addition to other taxes that the county is authorized to levy.
(b) The levy described in this section is not subject to the aggregate maximum levy limitation described in Section 59-2-908.
(4)
(a) The county shall levy and collect the tax described in this section in the same manner as other general taxes of the county.
(b) The county shall deposit revenue collected from the levy described in this section into a fund known as the county animal welfare fund.
(5) Before a county that provides animal welfare services on behalf of one or more municipalities may impose a tax under this section for the first time:
(a) the county shall notify each municipality of:
(i) the total cost to the county for providing animal welfare services; and
(ii) the total amount of revenue the county will generate by imposing a levy under this section;
(b) the county and the municipalities shall determine the county's and each municipality's percentage share of the county's cost for providing animal welfare services; and
(c) the county shall notify the State Tax Commission of:
(i) the names of the municipalities;
(ii) the revenue calculated by multiplying the county's percentage share of the cost for providing animal welfare services by the total amount of revenue the county will generate by imposing a levy under this section; and
(iii) for each municipality described in Subsection (5)(c)(i), the revenue calculated by multiplying the municipality's percentage share of the cost for providing animal welfare services by the total amount of revenue the county will generate by imposing a levy under this section.
(6) A county, as a condition of providing animal welfare services, may not prohibit a municipality from imposing a local animal control ordinance within the municipality that is different than a county animal control ordinance.

Enacted by Chapter 434, 2021 General Session

Part 2
Animal Shelter Pet Sterilization Act

11-46-201 Title.

This part is known as the "Animal Shelter Pet Sterilization Act."

Enacted by Chapter 130, 2011 General Session

11-46-202 Definitions.

In addition to the definitions in Section 11-46-102, as used in this part:
(1) "Proof of sterilization" means a written document signed by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, stating:

(a) a specified animal has been sterilized;
(b) the date on which the sterilization was performed; and
(c) the location where the sterilization was performed.
(2) "Recipient" means the person to whom an animal shelter transfers an animal for adoption.
(3) "Sterilization deposit" means the portion of a fee charged by an animal shelter to a recipient or claimant of an unsterilized animal to ensure the animal is timely sterilized in accordance with an agreement between the recipient or the claimant and the animal shelter.
(4) "Sterilized" means that an animal has been surgically altered either by the spaying of a female animal or by the neutering of a male animal, so it is unable to reproduce.
(5) "Transfer" means that an animal shelter sells, gives away, places for adoption, or transfers an animal to a recipient.

Renumbered and Amended by Chapter 130, 2011 General Session

11-46-203 Animal shelters to transfer only sterilized animals, or shall require sterilization deposit.
(1) An animal shelter may not transfer an animal that has not been sterilized, except as provided in Subsection (2) or Section 11-46-206.
(2) An animal shelter may transfer an animal for adoption that has not been sterilized only if the animal shelter:
(a) establishes a written agreement, executed by the recipient, stating the animal is not sterilized and the recipient agrees in writing to be responsible for ensuring the animal is sterilized:
(i) within 30 days after the agreement is signed, if the animal is six months of age or older; or
(ii) if the animal is younger than six months of age, within 30 days after the animal becomes six months of age; and
(b) receives from the recipient a sterilization deposit as provided under Section 11-46-204, the terms of which are part of the written agreement executed by the recipient in accordance with this section.
(3) The shelter may waive the sterilization deposit and release any unsterilized animal to a sponsor, as defined in Section 11-46-302, provided the sponsor is a non-profit organization that qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code and provides proof of sterilization within 30 days.

Renumbered and Amended by Chapter 130, 2011 General Session

11-46-204 Sterilization deposit.
(1) A sterilization deposit may be:
(a) a portion of the adoption fee or purchase price of the animal, which will enable the adopter to take the animal for sterilization to a veterinarian with whom the animal shelter has an agreement that the veterinarian will bill the animal shelter directly for the sterilization;
(b) a deposit that is:
(i) refundable to the recipient if proof of sterilization of the animal within the appropriate time limits under Section 11-46-203 is presented to the animal shelter not more than three months after the date the animal is sterilized; and
(ii) forfeited to the animal shelter if proof of sterilization is not presented to the animal shelter in compliance with Subsection (1)(b)(i); or
(c) a deposit under Section 11-46-206 required for an owner to claim an unsterilized animal impounded at the animal shelter.

(2) Sterilization deposits under Subsection (1) shall reflect the average reduced cost of a sterilization of an animal, based on the gender and weight of the animal, that is reasonably available in the area where the animal shelter is located, but the deposit may not be less than $25.
(3) If a female animal and her litter are transferred to one person, a sterilization deposit is required only for the female animal.
(4) All sterilization deposits forfeited or unclaimed under this section shall be retained by the animal shelter and used by the animal shelter only for:
(a) a program to sterilize animals, which may include a sliding scale fee program;
(b) a public education program to reduce and prevent overpopulation of animals and the related costs to local governments;
(c) a follow-up program to assure that animals transferred by the animal shelter are sterilized in accordance with the agreement executed under Section 11-46-203; and
(d) any additional costs incurred by the animal shelter in the administration of the requirements of this chapter.

Renumbered and Amended by Chapter 130, 2011 General Session

11-46-205 Failure to comply with sterilization agreement.

If a recipient fails to comply with the sterilization agreement under Subsection 11-46-203(2):
(1) the failure is ground for seizure and impoundment of the animal by the animal shelter from whom the recipient obtained the animal;
(2) the recipient relinquishes all ownership rights regarding the animal and any claim to expenses incurred in maintenance and care of the animal; and
(3) the recipient forfeits the sterilization deposit.

Renumbered and Amended by Chapter 130, 2011 General Session

11-46-206 Sterilization deposit -- When required for redemption by owner of impounded animal.

(1) Upon the second impound within a 12-month period and upon any subsequent impound of an animal that is claimed by its owner, an animal shelter may release the impounded animal to its owner only upon payment of all impound fees required by the shelter and:
(a) receipt of proof the animal has been sterilized; or
(b) a sterilization deposit.
(2) The sterilization deposit shall be refunded to the owner only if the owner provides proof of sterilization to the animal shelter within 30 days of release of the animal to the owner.

Renumbered and Amended by Chapter 130, 2011 General Session

11-46-207 Penalties.

(1)
(a) A person who knowingly commits any of the violations in Subsection (2) is subject to a civil penalty of not less than $250 on a first violation, and a civil penalty of not less than $500 on any second or subsequent violation.
(b) The administrator of the animal shelter imposes the civil penalties under this section.
(2) A person is subject to the civil penalties under Subsection (1) who:
(a) falsifies any proof of sterilization submitted for the purpose of compliance with this part;

(b) provides to an animal shelter or a licensed veterinarian inaccurate information regarding ownership of any animal required to be submitted for sterilization under this part;
(c) submits to an animal shelter false information regarding sterilization fees or fee schedules; or
(d) issues a check for insufficient funds for any sterilization deposit required of the person under this part.

(3) A person who contests a civil penalty imposed under this section is entitled to an administrative hearing that provides for the person's rights of due process.
(4) All penalties collected under this section shall be retained by the animal shelter imposing the penalties, to be used solely for the purposes of Subsection 11-46-204(4).

Renumbered and Amended by Chapter 130, 2011 General Session

11-46-208 Local ordinances may be no less restrictive.

Local ordinances or the adoption or placement procedures of any animal shelter shall be at least as restrictive as the provisions of this part.

Renumbered and Amended by Chapter 130, 2011 General Session

Part 3
Community Cat Act

11-46-301 Title.

This part is known as the "Community Cat Act."

Enacted by Chapter 130, 2011 General Session

11-46-302 Definitions.

In addition to the definitions in Sections 11-46-102 and 11-46-202, as used in this part:

(1) "Community cat" means a feral or free-roaming cat that is without visibly discernable or microchip owner identification of any kind, and has been sterilized, vaccinated, and ear-tipped.
(2) "Community cat caretaker" means any person other than an owner who provides food, water, or shelter to a community cat or community cat colony.
(3) "Community cat colony" means a group of cats that congregate together. Although not every cat in a colony may be a community cat, any cats owned by individuals that congregate with a colony are considered part of it.
(4) "Community cat program" means a program pursuant to which feral cats are sterilized, vaccinated against rabies, ear-tipped, and returned to the location where they congregate.
(5) "Ear-tipping" means removing approximately a quarter-inch off the tip of a cat's left ear while the cat is anesthetized for sterilization.
(6) "Feral" has the same meaning as in Section 23A-1-101.
(7) "Sponsor" means any person or organization that traps feral cats, sterilizes, vaccinates against rabies, and ear-tips them before returning them to the location where they were trapped. A sponsor may be any animal humane society, non-profit organization, animal rescue, adoption organization, or a designated community cat caretaker that also maintains written records on community cats.

Amended by Chapter 34, 2023 General Session

11-46-303 Community cats.

(1) A cat received by a shelter under the provisions of Section 11-46-103 may be released prior to the five-day holding period to a sponsor that operates a community cat program.
(2) A community cat is:
  (a) exempt from licensing requirements and feeding bans; and
  (b) eligible for release from an animal shelter prior to the mandatory five-day hold period in Section 11-46-103.
(3) Community cat sponsors or caretakers do not have custody, as defined in Section 76-9-301, of any cat in a community cat colony. Cats in a colony that are obviously owned, as evidenced by a collar, tags, microchip, or other discernable owner identification, are not exempt from the provisions of Title 76, Chapter 9, Part 3, Cruelty to Animals.
(4) Sterilization and vaccination records shall be maintained for a minimum of three years and be available to an animal control officer upon request.

Enacted by Chapter 130, 2011 General Session

11-46-304 Permit process for community cat colonies.

(1) A county or municipality may create a permitting process for community cat colonies.
(2) Any permitting process created by a county or municipality shall provide notice to adjacent property owners by:
  (a) mailing notice to the record owner of each parcel within parameters specified by the permitting process; or
  (b) posting notice on the property with a sign of sufficient size, durability, print quality, and location that is reasonably calculated to give notice to passers-by.

Enacted by Chapter 130, 2011 General Session

Part 4
Euthanasia of Shelter Animals

11-46-401 Euthanasia of shelter animals -- Permitted methods.

(1) Subject to Subsection (2), and except as provided in Subsection (3), on or after October 1, 2023, an animal shelter may euthanize an animal only by administering a drug that the U.S. Food and Drug Administration has approved for the euthanasia of an animal, as that term is defined in this chapter.
(2) An animal shelter may euthanize an animal only by:
  (a) intravenous injection by hypodermic needle;
  (b) intraperitoneal injection by hypodermic needle; or
  (c) if an animal is unconscious, intracardial injection by hypodermic needle.
(3)
  (a) Subsection (1) does not apply to an animal control officer who, subject to Subsection (3)(b), euthanizes an animal in an emergency situation outside of an animal shelter's facility or place of business.

(b) If an animal control officer euthanizes an animal in an emergency situation, the officer shall use, in the officer's judgment, the most humane method available to the officer.

Enacted by Chapter 360, 2023 General Session

11-46-402 Animal shelter euthanasia training -- Documentation.

(1) If an animal shelter performs euthanasia on animals, the animal shelter shall:

(a) adopt a policy for euthanasia that mandates procedures that comply with the applicable provisions of this part;

(b) adopt a euthanasia training program; and

(c) require each person who conducts or assists with euthanasia on behalf of the animal shelter to attend a euthanasia training program at least once every two years.

(2) An animal shelter described in Subsection (1) shall:

(a) ensure that the euthanasia training program is taught by a veterinarian who is licensed in accordance with Title 58, Chapter 28, Veterinary Practice Act; and

(b) maintain a record of training dates and who attended.

Enacted by Chapter 360, 2023 General Session

Chapter 46a
Animal Enterprise and Working Animal Regulations

11-46a-101 Definitions.

As used in this chapter:

(1)

(a) "Animal" means any nonhuman vertebrate life form.

(b) "Animal" does not include domestic cats, domestic dogs, exotic animals, or reptiles.

(2)

(a) "Animal enterprise" means a commercial enterprise, an academic enterprise, or a competition that uses or sells animals or animal products for profit, food or fiber production, agriculture, education, research, sport, or testing.

(b) "Animal enterprise" includes an animal competition, exposition, fair, rodeo, farm, feedlot, furrier, ranch, or event intended to exhibit or advance agricultural arts and sciences.

(c) "Animal enterprise" does not include an aquarium, circus, horse and carriage operation, retail pet store, or zoo.

(3) "Exotic animal" means a:

(a) member of the family Felidae not indigenous to Utah, except the species Felis catus (domestic cat);

(b) nonhuman primate;

(c) nonwolf member of the family Canidae not indigenous to Utah, except the species Canis familiaris (domestic dog);

(d) bear; and

(e) member of the order Crocodylia.

(4) "Political subdivision" means:

(a) a city, town, or metro township; or

(b) a county, as it relates to the licensing and regulation of an animal enterprise or working animal in the unincorporated area of the county.

(5)

(a) "Working animal" means an animal used for performing a specific duty or function in commerce, including an animal used for entertainment, herding, transportation, education, or exhibition.

(b) "Working animal" does not include a horse and carriage operation.

Enacted by Chapter 245, 2023 General Session

11-46a-102 Limitations on animal enterprise and working animal regulations.

(1) Subject to Subsection (2), a political subdivision may not adopt or enforce an ordinance or other regulation that prohibits or effectively prohibits:

(a) the operation of an animal enterprise;

(b) the use of a working animal; or

(c) domestic dogs from:

(i) actively participating in an exposition or rodeo; or

(ii) performing a specific duty as a working animal.

(2) Subsection (1) does not apply to an ordinance or other regulation that a political subdivision adopts or enforces if the ordinance or other regulation:

(a) enforces a state or federal law;

(b) is a land use regulation as that term is defined in Section 10-9a-103; or

(c) is adopted or enforced, in accordance with Section 10-8-15 or 19-4-113, to protect:

(i) drinking water or a source of drinking water from pollution; or

(ii) a waterworks system.

Enacted by Chapter 245, 2023 General Session

Chapter 47
Access to Elected Officials

11-47-101 Title.

This chapter is known as "Access to Elected Officials."

Enacted by Chapter 45, 2011 General Session

11-47-102 Definitions.

For purposes of this chapter, "elected official" means each person elected to a county office, municipal office, school board or school district office, special district office, or special service district office, but does not include judges.

Amended by Chapter 16, 2023 General Session

11-47-103 Public contact information.

Each elected official shall have a telephone number, if available, and an email address, if available, where that elected official may be reached directly.

Enacted by Chapter 45, 2011 General Session

Chapter 48
Emergency Response

11-48-101 Title.

This chapter is known as "Emergency Response."

Enacted by Chapter 230, 2011 General Session

11-48-101.5 Definitions.

As used in this chapter:

(1)

(a) "911 ambulance services" means ambulance services rendered in response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance services" does not mean a seven or ten digit telephone call received directly by an ambulance provider licensed under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.

(2) "Municipality" means a city, town, or metro township.

(3) "Political subdivision" means a county, city, town, special district, or service district.

Amended by Chapter 16, 2023 General Session
Amended by Chapter 327, 2023 General Session

11-48-102 Prohibition of response fees.

(1) A political subdivision, or a person who contracts with a political subdivision to provide emergency services:

(a) may not impose a flat fee, or collect a flat fee, from an individual involved in a traffic incident; and

(b) may only charge the individual for the actual cost of services provided in responding to the traffic incident, limited to:

(i) medical costs for:

(A) transporting an individual from the scene of a traffic accident; or

(B) treatment of an individual injured in a traffic accident;

(ii) repair to damaged public property, if the individual is legally liable for the damage;

(iii) the cost of materials used in cleaning up the traffic accident, if the individual is legally liable for the traffic accident; and

(iv) towing costs.

(2) If a political subdivision, or a person who contracts with a political subdivision to provide emergency services, imposes a charge on more than one individual for the actual cost of responding to a traffic incident, the political subdivision or person contracting with the political subdivision shall apportion the charges so that the political subdivision or person contracting with the political subdivision does not receive more for responding to the traffic incident than the actual response cost.

Amended by Chapter 265, 2021 General Session

Superseded 7/1/2024

11-48-103 Provision of 911 ambulance services in municipalities and counties.

(1) The governing body of each municipality and county shall, subject to Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, ensure at least a minimum level of 911 ambulance services are provided:

(a) within the territorial limits of the municipality or county;

(b) by a ground ambulance provider, licensed by the Department of Health and Human Services under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System; and

(c) in accordance with rules established by the State Emergency Medical Services Committee under Section 26B-1-404.

(2) A municipality or county may:

(a) subject to Subsection (3), maintain and support 911 ambulance services for the municipality's or county's own jurisdiction; or

(b) contract to:

(i) provide 911 ambulance services to any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(ii) receive 911 ambulance services from any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(iii) jointly provide 911 ambulance services with any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency; or

(iv) contribute toward the support of 911 ambulance services in any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency in return for 911 ambulance services.

(3)

(a) A municipality or county that maintains and supports 911 ambulance services for the municipality's or county's own jurisdiction under Subsection (2)(a) shall obtain a license as a ground ambulance provider from the Department of Health and Human Services under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.

(b) Sections 26B-4-154 through 26B-4-157 do not apply to a license described in Subsection (3)(a).

Amended by Chapter 16, 2023 General Session
Amended by Chapter 327, 2023 General Session

Effective 7/1/2024

11-48-103 Provision of 911 ambulance services in municipalities and counties.

(1) The governing body of each municipality and county shall, subject to Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers, ensure at least a minimum level of 911 ambulance services are provided:

(a) within the territorial limits of the municipality or county;

(b) by a ground ambulance provider, licensed by the Bureau of Emergency Medical Services under Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers; and

(c) in accordance with rules established by the State Emergency Medical Services Committee under Subsection 53-2d-105(8).

(2) A municipality or county may:

(a) subject to Subsection (3), maintain and support 911 ambulance services for the municipality's or county's own jurisdiction; or

(b) contract to:

(i) provide 911 ambulance services to any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(ii) receive 911 ambulance services from any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(iii) jointly provide 911 ambulance services with any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency; or

(iv) contribute toward the support of 911 ambulance services in any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency in return for 911 ambulance services.

(3)

(a) A municipality or county that maintains and supports 911 ambulance services for the municipality's or county's own jurisdiction under Subsection (2)(a) shall obtain a license as a ground ambulance provider from the Bureau of Emergency Medical Services under Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers.

(b) Sections 53-2d-505 through 53-2d-505.3 do not apply to a license described in Subsection (3)(a).

Amended by Chapter 16, 2023 General Session
Amended by Chapter 310, 2023 General Session
Amended by Chapter 327, 2023 General Session

Chapter 50
Political Subdivision Financial Reporting Certification

Part 1
General Provisions

11-50-101 Title.

This chapter is known as "Political Subdivision Financial Reporting Certification."

Enacted by Chapter 367, 2013 General Session

11-50-102 Definitions.

As used in this chapter:

(1) "Annual financial report" means a comprehensive annual financial report or similar financial report required by Section 51-2a-201.

(2) "Chief administrative officer" means the chief administrative officer designated in accordance with Section 11-50-202.
(3) "Chief financial officer" means the chief financial officer designated in accordance with Section 11-50-202.
(4) "Governing body" means:
(a) for a county, city, or town, the legislative body of the county, city, or town;
(b) for a special district, the board of trustees of the special district;
(c) for a school district, the local board of education; or
(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:
(i) the governing body of the county or municipality that created the special service district, if no administrative control board has been established under Section 17D-1-301; or
(ii) the administrative control board, if one has been established under Section 17D-1-301.
(5)
(a) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.
(b) Notwithstanding Subsection (5)(a), "political subdivision" does not mean a project entity, as defined in Section 11-13-103.

Amended by Chapter 16, 2023 General Session

Part 2
Certification Required

11-50-201 Certification by chief administrative officer and chief financial officer required.

For an annual financial report of a political subdivision to be considered complete on and after July 1, 2013, the following certifications shall be included with the annual financial report:
(1) Under penalty of perjury, I, [officer's name] certify that the [annual financial report] of [political subdivision] for the year ended [date] fairly presents in all material respects the financial condition and results of operations of [political subdivision].
[signature], Chief Administrative Officer.
(2) Under penalty of perjury, I, [officer's name] certify that the [annual financial report] of [political subdivision] for the year ended [date] fairly presents in all material respects the financial condition and results of operations of [political subdivision].
[signature], Chief Financial Officer.

Enacted by Chapter 367, 2013 General Session

11-50-202 Designating chief administrative officer -- Designating chief financial officer.

(1)
(a) The chief administrative officer of a political subdivision is:
(i) the individual appointed as the chief administrative officer of the political subdivision in accordance with statute; or

(ii) if a chief administrative officer is not appointed in accordance with statute, the individual designated as the chief administrative officer by the governing body of the political subdivision.

(b) In designating a chief administrative officer under this Subsection (1), the governing body shall designate the individual who holds a managerial or similar position to perform administrative duties or functions for the political subdivision.

(2)

(a) The chief financial officer of a political subdivision is:

(i) the individual appointed as the chief financial officer of the political subdivision in accordance with statute; or

(ii) if a chief financial officer is not appointed in accordance with statute, the individual designated as the chief financial officer by the governing body of the political subdivision.

(b) In designating a chief financial officer under this Subsection (2), the governing body shall designate the individual who has primary responsibility for preparing the annual financial report.

Enacted by Chapter 367, 2013 General Session

Chapter 51
Local Jurisdiction Related to Federally Managed Land Act

11-51-101 Title.

This chapter is known as the "Local Jurisdiction Related to Federally Managed Land Act."

Enacted by Chapter 342, 2013 General Session

11-51-102 Definitions.

As used in this chapter:

(1) "Chief executive officer" means:

(a) for a municipality:

(i) the mayor, if the municipality is operating under a form of municipal government other than the council-manager form of government; or

(ii) the city manager, if the municipality is operating under the council-manager form of government; or

(b) for a county:

(i) the chair of the county commission, if the county is operating under the county commission or expanded county commission form of government;

(ii) the county executive officer, if the county is operating under the county-executive council form of government; or

(iii) the county manager, if the county is operating under the council-manager form of government.

(2) "County sheriff" means an individual elected to the office of county sheriff in the state who meets the qualifications described in Section 17-22-1.5.

(3) "Federal agency" means the United States Bureau of Land Management, the United States Forest Service, the United States Fish and Wildlife Service, or the National Park Service.

(4) "Federally managed land" means land that is managed by the United States Bureau of Land Management, the United States Forest Service, or the National Park Service.
(5) "National monument" means a national monument designated or declared in accordance with the Antiquities Act of 1906, 54 U.S.C. Sec. 320301 et seq.
(6) "National recreation area" means a recreation area designated by an act of Congress.
(7) "Political subdivision" means a municipality or county.

Amended by Chapter 348, 2016 General Session

11-51-103 Local jurisdiction related to federally managed land -- Written notice -- Mitigation action.

(1)
(a) The authority of a chief executive officer of a political subdivision or county sheriff to exercise jurisdiction on federally managed land, a national monument, or a national recreation area in the state that is wholly or partially situated within a political subdivision includes the following:
(i) if the action or inaction of a federal agency related to federally managed land, a national monument, or a national recreation area threatens to adversely affect the health, safety, or welfare of the people of the political subdivision, the chief executive officer or county sheriff may, after consulting with the attorney general, provide written notice to the federal agency, which notice shall:
(ii) be delivered to the federal agency by hand or by certified mail and a copy provided by certified mail to the governor, the attorney general, and the state's congressional delegation;
(iii) include a detailed explanation of how the action or inaction of the federal agency related to federally managed land, a national monument, or a national recreation area threatens to adversely affect the health, safety, or welfare of the people of the political subdivision;
(iv) include a detailed description of the action the federal agency should take to mitigate the risk to the health, safety, or welfare of the people of the political subdivision; and
(v) provide a specific date by which time the federal agency should respond to the notice; and
(b) if after receiving notice as described in Subsection (1)(a)(ii), the federal agency does not respond by the date requested in the notice, or otherwise indicates that it is unwilling to take action to mitigate the risk to the health, safety, or welfare of the people of the political subdivision described in the notice:
(i) the chief executive officer or county sheriff shall consult with the county attorney and attorney general; and
(ii) the attorney general shall send within 20 days of consulting with the chief executive officer or county sheriff a written notice to the federal agency stating what legal steps, if any, the attorney general will take to protect the people of the political subdivision from the threat to their health, safety, or welfare.

(2)
(a) If an action or inaction of a federal agency related to federally managed land, a national monument, or a national recreation area constitutes an imminent threat to the health, safety, or welfare of the people of the political subdivision, the chief executive officer or county sheriff may, after consulting with the attorney general, provide written notice to the federal agency.
(b) The chief executive officer or county sheriff shall:
(i) deliver the notice described in Subsection (2)(a) to the federal agency in person or by certified mail;
(ii) provide a copy of the notice by certified mail to the governor, the attorney general, and the state's congressional delegation; and

(iii) include in the notice:
(A) a detailed explanation of how the federal agency's action or inaction constitutes an imminent threat to the health, safety, or welfare of the people of the political subdivision;
(B) a detailed description of the action that the federal agency should take to eliminate the imminent threat; and
(C) provide a specific date by which the federal agency should respond to the notice, either with action or by written communication.
(3) If a federal agency does not respond, either with action or in written communication, to a notice described in Subsection (2)(b) by the date described in Subsection (2)(b)(iii)(C), or otherwise indicates that the agency is unwilling to take action, the chief executive officer or county sheriff may, after additional consultation with the county attorney and attorney general, take action and exercise necessary jurisdictional authority to mitigate the risk to the health, safety, or welfare of the people of the political subdivision.

Amended by Chapter 296, 2014 General Session

11-51-104 Attorney general duties.
(1) If the United States or a federal representative brings a legal action or a proceeding against a chief executive officer, a county sheriff, or an employee or agent of a chief executive officer or county sheriff for taking action to exercise the jurisdictional authority described in this chapter, and that action is taken to mitigate an imminent threat to the health, safety, or welfare of the people of a political subdivision in accordance with Section 11-51-103, the attorney general shall:
(a) review the legal action brought by the United States or federal representative;
(b) investigate the matter, including conducting interviews of the chief executive officer, county sheriff, or employees or agents of the political subdivision; and
(c) decide in the attorney general's discretion whether to provide a defense for a person named as a defendant in the legal action.
(2) If the attorney general determines to provide or not provide a defense to a person named as a defendant in a legal action described in Subsection (1), that determination does not imply:
(a) a position or opinion by the attorney general as to the merits of the legal action; and
(b) a duty or agreement by the state to pay a monetary judgment for the United States or federal representative that may be obtained against a person named in the legal action.
(3) Subsections (1) and (2) may not be interpreted to prohibit a county from:
(a) reviewing a legal action described in Subsection (1);
(b) investigating the matter, including conducting interviews;
(c) providing a defense for a person named as a defendant in the legal action; or
(d) assisting the attorney general with a duty described in this section.

Enacted by Chapter 296, 2014 General Session

Chapter 51a
Catastrophic Public Nuisance Act

Part 1
General Provisions

11-51a-101 Title.

This chapter is known as the "Catastrophic Public Nuisance Act."

Enacted by Chapter 419, 2015 General Session

11-51a-102 Definitions.

As used in this chapter:

(1) "Catastrophic public nuisance" means a condition on state or federal land where natural resources and biota have been managed or neglected to such an extent as to cause:

(a) the threat of a catastrophic wildfire demonstrated by:

(i) stand density, basal area, or ground fuel load greater than 150% of land health standards; or

(ii) an insect or disease infestation severe enough to threaten the mortality of at least 20% of the trees in the area; or

(b) a condition in the area that threatens the:

(i) quantity or quality of the public water supply of a political subdivision;

(ii) health, safety, or welfare of the citizens of a political subdivision;

(iii) air quality of a nonattainment area; or

(iv) vegetative resources required to support land health and authorized livestock grazing.

(2) "Chief executive officer" means:

(a) for a municipality:

(i) the mayor, if the municipality is operating under a form of municipal government other than the council-manager form of government; or

(ii) the city manager, if the municipality is operating under the council-manager form of government;

(b) for a county:

(i) the chair of the county commission, if the county is operating under the county commission or expanded county commission form of government;

(ii) the county executive officer, if the county is operating under the county-executive form of government; or

(iii) the county manager, if the county is operating under the council-manager form of government.

(3) "County sheriff" means an individual:

(a) elected to the office of county sheriff; and

(b) who fulfills the duties described in Subsection 17-22-1.5(1).

(4) "Federal agency" means the:

(a) United States Bureau of Land Management;

(b) United States Forest Service;

(c) United States Fish and Wildlife Service; or

(d) National Park Service.

(5) "Federally managed land" means land that is managed by a federal agency.

(6) "Political subdivision" means a municipality or county.

Enacted by Chapter 419, 2015 General Session

11-51a-103 Declaration of catastrophic public nuisance -- Authority to declare and demand abatement.

(1) The chief executive officer of a political subdivision or a county sheriff may determine that a catastrophic public nuisance exists on land within the borders of the political subdivision.
(2) In evaluating whether a catastrophic public nuisance exists, the chief executive officer of a political subdivision or a county sheriff may consider:
(a) tree density and overall health of a forested area, including the fire regime condition class;
(b) insect and disease infestation, including insect and disease hazard ratings;
(c) fuel loads;
(d) forest or range type;
(e) slope and other natural characteristics of an area;
(f) watershed protection criteria;
(g) weather and climate; and
(h) any other factor that the chief executive officer of a political subdivision or a county sheriff reasonably considers to be relevant, under the circumstances.
(3) Except as provided in Section 11-51a-104, upon making the determination described in Subsection (1), the chief executive officer of a political subdivision or a county sheriff shall after consultation with the attorney general:
(a) serve notice of the determination described in Subsection (1), by hand or certified mail, on the federal or state agency that manages the land upon which the catastrophic nuisance exists; and
(b) provide a copy of the determination that is served under Subsection (3)(a) to, together with a proposed detailed abatement plan:
(i) the governor;
(ii) the attorney general;
(iii) if the catastrophic public nuisance exists on federally managed land, the state's congressional delegation;
(iv) the chairs of the Executive Appropriations Committee of the Legislature; and
(v) the Office of the Legislative Fiscal Analyst.
(4) The notice described in Subsection (3)(a) shall include:
(a) a detailed explanation of the basis for determination that a catastrophic public nuisance exists on the land in question;
(b) a demand that the federal or state agency formulate a plan to abate the catastrophic nuisance; and
(c) a specific date, no less than 30 days after the day on which the notice is received, by which time the federal or state agency that manages the land shall:
(i) abate the catastrophic public nuisance; or
(ii) produce a plan for mitigating the catastrophic public nuisance that is reasonably acceptable to the county or subdivision.
(5) The chief executive officer of a political subdivision or a county sheriff may enter into a plan with the relevant federal or state agency, or both, to abate the catastrophic public nuisance.
(6) If, after receiving the notice described in Subsections (3)(a) and (4), the federal or state agency does not respond by the date requested in the notice or otherwise indicates that the federal or state agency is unwilling to take action to abate the catastrophic public nuisance, the chief executive officer of a political subdivision or a county sheriff shall consult with the county attorney and attorney general.

Amended by Chapter 500, 2019 General Session

11-51a-104 Emergency abatement of a catastrophic public nuisance -- Indemnify, defend, hold harmless.

(1) If a chief executive officer of a political subdivision or a county sheriff determines that a public nuisance exists on federally managed land, pursuant to Subsection 11-51a-103(1), and the chief executive officer of a political subdivision or the county sheriff also finds that the catastrophic public nuisance in question adversely affects, or constitutes a threat to, the public health, safety, and welfare of the people of the political subdivision, the chief executive officer of the political subdivision or the county sheriff may, after consulting with the attorney general, pursue all remedies allowed by law.

(2) In seeking an emergency abatement of a catastrophic public nuisance, a chief executive officer of a political subdivision or a county sheriff shall attempt, as much as possible, to:

(a) coordinate with state and federal agencies; and

(b) seek the advice of professionals, including private sector professionals, with expertise in abating a catastrophic public nuisance.

(3) The state shall indemnify, defend, and hold a chief executive officer or county sheriff harmless from any claims or damages, including court costs and attorney fees, that are assessed as a result of the chief executive officer's or county sheriff's action, if:

(a) the chief executive officer or county sheriff has complied with this chapter;

(b) the court challenge against the chief executive officer or county sheriff addresses the chief executive officer's or county sheriff's action in abating a catastrophic public nuisance; and

(c) the chief executive officer's or county sheriff's action abating the catastrophic public nuisance were in reasonable furtherance of the detailed proposed abatement plan described in Subsection 11-51a-103(3)(b).

Amended by Chapter 500, 2019 General Session

Part 2
Limitations

11-51a-201 Limitation.

Nothing in this chapter limits:

(1) the authority of the state to manage and protect wildlife under Title 23A, Wildlife Resources Act; or

(2) the power of a municipality under Section 10-8-60.

Amended by Chapter 34, 2023 General Session

Chapter 52
Contingency Plans

11-52-101 Title.

This chapter is known as "Contingency Plans."

Enacted by Chapter 347, 2013 General Session

11-52-102 Definitions.

As used in this chapter:

(1) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(2) "Political subdivision" means:

(a) a county, as defined in Section 17-50-101;

(b) a municipality, as defined in Section 10-1-104;

(c) a special district, as defined in Section 17B-1-102;

(d) a special service district, as defined in Section 17D-1-102;

(e) an interlocal entity, as defined in Section 11-13-103;

(f) a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(g) a local building authority, as defined in Section 17D-2-102; or

(h) a conservation district, as defined in Section 17D-3-102.

(3) "Single audit" has the same meaning as defined in 31 U.S.C. Sec. 7501.

Amended by Chapter 16, 2023 General Session

11-52-103 Developing and publishing a contingency plan.

A political subdivision that, during a fiscal year of the political subdivision, receives federal funds or federal receipts that comprise 10% or more of the political subdivision's annual budget shall, before the beginning of the next fiscal year:

(1) develop a contingency plan explaining how the political subdivision will operate in the event that the total amount of federal funds and federal receipts that it receives are reduced by 5% or more, but by less than 25%, in the next fiscal year;

(2) develop a contingency plan explaining how the political subdivision will operate in the event that the total amount of federal funds and federal receipts that it receives are reduced by 25% or more in the next fiscal year;

(3) submit a copy of the contingency plan to the state auditor; and

(4) publish the contingency plan on the political subdivision's website, if the political subdivision maintains a website.

Enacted by Chapter 347, 2013 General Session

Chapter 54
Local Government Sale of Procurement Item

11-54-101 Title.

This chapter is known as "Local Government Sale of Procurement Item."

Enacted by Chapter 180, 2016 General Session

11-54-102 Definitions.

As used in this chapter:

(1) "Buyback purchaser" means a person who buys a procurement item from the local government entity to which the person previously sold the procurement item.
(2) "Excess repurchase amount" means the difference between:
  (a) the amount a buyback purchaser pays to a local government entity to purchase a procurement item that the buyback purchaser previously sold to the local government entity; and
  (b) the amount the local government entity paid to the buyback purchaser to purchase the procurement item.
(3) "Local government entity" means a county, city, town, metro township, special district, special service district, community reinvestment agency, conservation district, or school district that is not subject to Title 63G, Chapter 6a, Utah Procurement Code.
(4) "Procurement item" means the same as that term is defined in Section 63G-6a-103.

Amended by Chapter 16, 2023 General Session

11-54-103 Sale of previously purchased item -- Limitations.

A local government entity that sells a procurement item to a buyback purchaser for an amount that exceeds the amount the local government entity paid for the procurement item:
(1) shall require the buyback purchaser to pay cash for the procurement item;
(2) may not accept the excess repurchase amount in the form of a credit, discount, or other incentive on a future purchase that the local government entity makes from the buyback purchaser; and
(3) may not use the excess repurchase amount to acquire an additional procurement item from the person who paid the excess repurchase amount.

Enacted by Chapter 180, 2016 General Session

Chapter 55
Political Subdivision Board Compensation

11-55-101 Title.

This chapter is known as "Political Subdivision Board Compensation."

Enacted by Chapter 70, 2017 General Session

11-55-102 Definitions.

As used in this chapter:
(1) "Board" means the same as that term is defined in Section 63A-3-106.
(2) "Board member" means the same as that term is defined in Section 63A-3-106.
(3) "Municipality" means the same as that term is defined in Section 10-1-104.
(4) "Political subdivision" means a county, municipality, school district, limited purpose local government entity described in Title 17B, Limited Purpose Local Government Entities - Special Districts, Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental subdivision or public corporation.

Amended by Chapter 16, 2023 General Session

11-55-103 General provisions.

(1) A political subdivision may authorize a board member who serves on a board within or created by the political subdivision to receive per diem and travel expenses for meetings actually attended at a rate that the political subdivision establishes, subject to Subsection (2).
(2) A political subdivision may not establish rates for payment of per diem and travel expenses described in Subsection (1) that exceed the rates established in accordance with:
  (a) Section 63A-3-106;
  (b) Section 63A-3-107; and
  (c) a rule adopted by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
(3) Nothing in this section limits or supercedes the authority of a political subdivision to set compensation in accordance with Section 10-3-818, 11-13-403, 17-28-2, 17-33-4, 17B-1-307, or 17D-1-305.

Enacted by Chapter 70, 2017 General Session
Amended by Chapter 165, 2017 General Session, (Coordination Clause)

Chapter 56
Mobile Business Licensing and Regulation Act

11-56-102 Definitions.

As used in this chapter:
(1)
  (a) "Enclosed mobile business" means a business that maintains ongoing mobility and of which the receipt of goods or services offered and point of sales occurs within an enclosed vehicle, an enclosed trailer, or an enclosed mobile structure.
  (b) An enclosed mobile business's goods or services include those offered in the following industries:
    (i) barber;
    (ii) beauty and cosmetic, including nail, eyelash, and waxing;
    (iii) cycling;
    (iv) cell phone;
    (v) computer;
    (vi) footwear;
    (vii) media archive and transfer;
    (viii) pet grooming;
    (ix) sewing and tailoring;
    (x) small engine; and
    (xi) tool.
  (c) "Enclosed mobile business" does not include a food cart, a food truck, or an ice cream truck.
(2) "Event permit" means a permit that a political subdivision issues to the organizer of a mobile business event located on public property.
(3)

(a) "Food cart" means a cart:
(i) that is not motorized; and
(ii) that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption.
(b) "Food cart" does not include an enclosed mobile business, a food truck, or an ice cream truck.
(4)
(a) "Food truck" means a fully encased food service establishment:
(i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport; and
(ii) from which a food truck vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption.
(b) "Food truck" does not include an enclosed mobile business, a food cart, or an ice cream truck.
(5) "Health department permit" means a document that a local health department issues to authorize a mobile business to operate within the jurisdiction of the local health department.
(6)
(a) "Ice cream truck" means a fully encased food service establishment:
(i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport;
(ii) from which a vendor, from within the frame of the vehicle, serves ice cream;
(iii) that attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and
(iv) that may stop to serve ice cream at the signal of a patron.
(b) "Ice cream truck" does not include an enclosed mobile business, a food cart, or a food truck.
(7) "Local health department" means the same as that term is defined in Section 26A-1-102.
(8) "Mobile business" means an enclosed mobile business, a food cart, a food truck, or an ice cream truck.
(9) "Mobile business event" means an event at which a mobile business has been invited by the event organizer to offer the mobile business's goods or services at a private or public gathering.
(10) "Operator" means a person, including a vendor, who owns, manages, controls, or operates a mobile business.
(11) "Political subdivision" means:
(a) a city, town, or metro township; or
(b) a county, as it relates to the licensing and regulation of businesses in the unincorporated area of the county.
(12)
(a) "Temporary mass gathering" means:
(i) an actual or reasonably anticipated assembly of 500 or more people that continues, or reasonably can be expected to continue, for two or more hours per day; or
(ii) an event that requires a more extensive review to protect public health and safety because the event's nature or conditions have the potential of generating environmental or health risks.
(b) "Temporary mass gathering" does not include an assembly of people at a location with permanent facilities designed for that specific assembly, unless the assembly is a temporary mass gathering described in Subsection (15)(a)(i).

Amended by Chapter 450, 2023 General Session

11-56-103 Licensing -- Reciprocity -- Fees.

(1)
(a) Subject to the provisions of this chapter, a political subdivision may require a mobile business to obtain a business license if the mobile business does not hold a current business license in good standing from another political subdivision in the state.
(b) A political subdivision may only charge a licensing fee to a mobile business in an amount that reimburses the political subdivision for the actual cost of processing the business license.
(2) A political subdivision may not:
(a) require a mobile business to:
(i) obtain a separate business license beyond the initial business license described in Subsection (1)(a);
(ii) pay a fee other than the fee for the initial business license described in Subsection (1); or
(iii) pay a fee for each employee the mobile business employs;
(b) as a condition of a mobile business obtaining a business license under Subsection (1):
(i) require an operator to submit to or offer evidence of a criminal background check, except as provided in Subsection (5); or
(ii) require a mobile business or its operator to demonstrate how the mobile business will comply with a land use or zoning ordinance at the time the mobile business applies for the business license; or
(c) regulate or restrict the size of a mobile business.
(3)
(a) A political subdivision shall recognize as valid within the political subdivision the business license of a mobile business obtained in another political subdivision within the state, if the business license is current and in good standing.
(b) Notwithstanding Subsection (3)(a), a political subdivision is not required to recognize as valid the business license issued by another political subdivision within the state if:
(i)
(A) the mobile business does not have a current health department permit from a local health department within the state; and
(B) the nature of the mobile business requires that the mobile business have a health department permit in order to operate; or
(ii)
(A) the mobile business does not have current evidence of passing a fire safety inspection, conducted by another political subdivision within the state in accordance with Subsection 11-56-104(3)(a); and
(B) the nature of the mobile business requires that the mobile business pass a fire safety inspection in order to operate.
(4) Nothing in this section prevents a political subdivision from:
(a) requiring a mobile business to comply with local zoning and land use regulations to the extent that the regulations do not conflict with this chapter;
(b) promulgating local ordinances and regulations consistent with this section that address how and where a food truck or enclosed mobile business truck may operate within the political subdivision;
(c) requiring a mobile business to obtain an event permit in accordance with Section 11-56-105; or
(d) if the nature of the mobile business requires the mobile business to have a business license, health department permit, or fire safety inspection, requiring the mobile business to keep a copy of the following in each mobile business that is in operation and engaging in transactions:

(i) a valid business license, whether issued by the political subdivision or another political subdivision;
(ii) a valid health department permit, as described in Section 11-56-104, whether issued by a local health department or another health department; or
(iii) evidence of passing a fire safety inspection, as described in Section 11-56-104, whether conducted by the political subdivision or another political subdivision.
(5) As a condition of obtaining and maintaining in good standing an initial business license as described in Subsection (1)(a), a political subdivision may require a food truck business that operates one or more ice cream trucks to submit to or offer evidence of an annual criminal background check for each employee of the food truck business that operates or will operate an ice cream truck.

Amended by Chapter 450, 2023 General Session

11-56-104 Safety and health inspections and permits -- Fees.
(1)
(a)
(i) A food truck business shall obtain, for each food truck that the business operates, an annual health department permit from the local health department that has jurisdiction over the area in which the majority of the food truck's operations occur.
(ii) Subject to Subsection (4)(a), a mobile business is not subject to a local health department's regulations or permit requirements, unless the local health department has authority to regulate the activities or services provided by the mobile business through regulation or permit.
(b) A local health department shall recognize as valid a health department permit that has been issued by another local health department within the state.
(2) A local health department may only charge a fee for a health department permit in an amount that reimburses the local health department for the cost of regulating the mobile business.
(3)
(a) A political subdivision inspecting a mobile business for fire safety shall conduct the inspection based on the criteria that the Utah Fire Prevention Board, created in Section 53-7-203, establishes in accordance with Section 53-7-204.
(b)
(i) A political subdivision shall recognize as valid within the political subdivision's jurisdiction an approval from another political subdivision within the state that shows that the mobile business passed a fire safety inspection that the other political subdivision conducted.
(ii) A political subdivision may not require that a mobile business pass a fire safety inspection in a given calendar year if the mobile business presents to the political subdivision an approval described in Subsection (3)(b)(i) issued during the same calendar year.
(4)
(a) Nothing in this section prevents a local health department from requiring a mobile business to obtain an event permit, in accordance with Section 11-56-105.
(b) Nothing in this section prevents a political subdivision from revoking the political subdivision's approval:
(i) described in Subsection (1)(b), if the mobile business fails a health inspection by a local health department; or
(ii) described in Subsection (3)(b)(i), if the mobile business does not pass a fire safety inspection described in Subsection (3)(a).

(c) For each mobile business that fails a health inspection as described in Subsection (4)(b)(i), a local health department may charge and collect a fee from the mobile business for that health inspection.

Amended by Chapter 450, 2023 General Session

11-56-105 Mobile business events.

(1) Subject to Subsection (4), a political subdivision may not require a mobile business to pay any fee or obtain from the political subdivision any permit to operate the mobile business at a mobile business event that takes place on private property within the political subdivision, regardless of whether the event is open or closed to the public.

(2) If a mobile business has a business license from any political subdivision within the state, a political subdivision may not require the mobile business to pay a fee or obtain from the political subdivision an additional business license or permit to operate at an event that:

(a) takes place on private property within the political subdivision; and

(b) is not open to the public.

(3) If a political subdivision requires an event permit for a mobile business event, the organizer of the mobile business event may obtain the event permit on behalf of the mobile businesses that service the event.

(4)

(a) Nothing in this section prohibits a county health department from requiring a permit for a temporary mass gathering.

(b)

(i) A mobile business operating at a temporary mass gathering that occurs over multiple days may operate in a stationary manner for the duration of the temporary mass gathering, not to exceed five consecutive days, without moving or changing location if the mobile business maintains sanitary conditions and operates in compliance with the permitting requirements and regulations imposed on other similar vendors at the temporary mass gathering.

(ii) A county health department may not impose a requirement on a mobile business described in Subsection (4)(b)(i) that the county health department does not impose on other similar vendors operating at the temporary mass gathering.

Amended by Chapter 450, 2023 General Session

11-56-106 Mobile business operation.

A political subdivision may not:

(1) entirely or constructively prohibit mobile businesses in a zone in which a food establishment is a permitted or conditional use;

(2) prohibit the operation of a food truck within a given distance of a restaurant;

(3) restrict the total number of days a mobile business may operate within the political subdivision during a calendar year;

(4) require a mobile business to:

(a) provide to the political subdivision:

(i) a site plan for each location in which a mobile business operates in the public right of way, if the political subdivision permits mobile businesses in the public right of way; or

(ii) the date, time, or duration that a mobile business will operate within the political subdivision; or

(b) obtain and pay for a land use permit for each location and time during which a mobile business operates; or
(5) if a mobile business has the consent of a private property owner to operate on the private property:
(a) limit the number of days the mobile business may operate on the private property;
(b) require that the mobile business provide to the political subdivision or keep on file in the mobile business the private property owner's written consent; or
(c) require a site plan for the operation of the mobile business on the private property where the mobile business operates in the same location for less than 10 hours per week.

Amended by Chapter 450, 2023 General Session

Chapter 57
Personal Use Expenditures for Political Subdivision Officers and Employees

11-57-101 Title.

This chapter is known as "Personal Use Expenditures for Political Subdivision Officers and Employees."

Enacted by Chapter 354, 2017 General Session

11-57-102 Definitions.

As used in this chapter:
(1) "Employee" means a person who is not an elected or appointed officer and who is employed on a full- or part-time basis by a political subdivision.
(2) "Officer" means a person who is elected or appointed to an office or position within a political subdivision.
(3)
(a) "Personal use expenditure" means an expenditure made without the authority of law that:
(i) is not directly related to the performance of an activity as an officer or employee of a political subdivision;
(ii) primarily furthers a personal interest of an officer or employee of a political subdivision or the family, a friend, or an associate of an officer or employee of a political subdivision; and
(iii) would constitute taxable income under federal law.
(b) "Personal use expenditure" does not include:
(i) a de minimis or incidental expenditure;
(ii) a monthly vehicle allowance; or
(iii) a government vehicle that an officer or employee uses to travel to and from the officer or employee's official duties, including an allowance for personal use as provided by a written policy of the political subdivision.
(4) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, special district, special service district, entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.
(5) "Public funds" means the same as that term is defined in Section 51-7-3.

Amended by Chapter 16, 2023 General Session

11-57-103 Personal use expenditures prohibited.

(1) An officer or employee of a political subdivision may not:

(a) use public funds for a personal use expenditure; or

(b) incur indebtedness or liability on behalf of, or payable by, a political subdivision for a personal use expenditure.

(2) If a political subdivision determines that a political subdivision officer or employee has intentionally made a personal use expenditure in violation of Subsection (1), the political subdivision shall:

(a) require the political subdivision officer or employee to deposit the amount of the personal use expenditure into the fund or account from which:

(i) the personal use expenditure was disbursed; or

(ii) payment for the indebtedness or liability for a personal use expenditure was disbursed;

(b) require the political subdivision officer or employee to remit an administrative penalty in an amount equal to 50% of the personal use expenditure to the political subdivision; and

(c) deposit the money received under Subsection (2)(b) into the operating fund of the political subdivision.

(3)

(a) Any officer or employee of a political subdivision who has been found by the political subdivision to have made a personal use expenditure in violation of Subsection (1) may appeal the finding of the political subdivision.

(b) The political subdivision shall establish an appeal process for an appeal made under Subsection (3)(a).

(4)

(a) Subject to Subsection (4)(b), a political subdivision may withhold all or a portion of the wages of an officer or employee of the political subdivision who has violated Subsection (1) until the requirements of Subsection (2) have been met.

(b) If the officer or employee has requested an appeal under Subsection (3), the political subdivision may only withhold the wages of the officer or employee after the appeal process has confirmed that the officer or employee violated Subsection (1).

Enacted by Chapter 354, 2017 General Session

11-57-104 Relation to other actions -- Prohibition on disbursing funds and accessing accounts.

(1) Nothing in this chapter:

(a) immunizes a political subdivision officer or employee from or precludes any criminal prosecution or civil or employment action for an unlawful personal use expenditure; or

(b) limits or supersedes the authority of a political subdivision to set compensation in accordance with Section 10-3-818.

(2) A political subdivision officer or employee who is convicted of misusing public money or public property under Section 76-8-402 may not disburse public funds or access public accounts.

Amended by Chapter 211, 2019 General Session

Chapter 58
Utah Inland Port Authority Act

Part 1
General Provisions

11-58-102 Definitions.

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.
(2) "Authority jurisdictional land" means land within the authority boundary delineated:
(a) in the electronic shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and
(b) beginning April 1, 2020, as provided in Subsection 11-58-202(3).
(3) "Base taxable value" means:
(a)
(i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the authority jurisdictional land, the taxable value of authority jurisdictional land in calendar year 2018; and
(ii) for an area described in Section 11-58-600.7, the taxable value of that area in calendar year 2017; or
(b) for a project area that consists of land outside the authority jurisdictional land, the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.
(4) "Board" means the authority's governing body, created in Section 11-58-301.
(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection 11-58-203(1), including the development and establishment of an inland port.
(6) "Contaminated land" means land:
(a) within a project area; and
(b) that contains hazardous materials, as defined in Section 19-6-302, hazardous substances, as defined in Section 19-6-302, or landfill material on, in, or under the land.
(7) "Development" means:
(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including public infrastructure and improvements; and
(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (7)(a).
(8) "Development project" means a project for the development of land within a project area.
(9) "Inland port" means one or more sites that:
(a) contain multimodal facilities, intermodal facilities, or other facilities that:
(i) are related but may be separately owned and managed; and
(ii) together are intended to:
(A) allow global trade to be processed and altered by value-added services as goods move through the supply chain;
(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo-handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and
(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and
(b) may include a satellite customs clearance terminal, an intermodal facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.
(10) "Inland port use" means a use of land:
(a) for an inland port;
(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection (9);
(c) that complements or supports the purposes of an inland port, as stated in Subsection (9); or
(d) that depends upon the presence of the inland port for the viability of the use.
(11) "Intermodal facility" means a facility for transferring containerized cargo between rail, truck, air, or other transportation modes.
(12) "Landfill material" means garbage, waste, debris, or other materials disposed of or placed in a landfill.
(13) "Multimodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.
(14) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302(3) who does not have the power to vote on matters of authority business.
(15) "Project area" means:
(a) the authority jurisdictional land, subject to Section 11-58-605; or
(b) land outside the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.
(16) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.
(17) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.
(18) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.
(19) "Property tax differential":
(a) means the difference between:
(i) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and
(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property; and
(b) does not include property tax revenue from:
(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;
(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or
(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.
(20) "Public entity" means:
(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(21)

(a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i)

(A) benefit the public and are owned by a public entity or a utility; or

(B) benefit the public and are publicly maintained or operated by a public entity; or

(ii)

(A) are privately owned;

(B) benefit the public;

(C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and

(D) are built according to applicable county or municipal design and safety standards.

(b) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, rail lines, intermodal facilities, multimodal facilities, and public transportation facilities;

(iii) an inland port; and

(iv) infrastructure, improvements, facilities, or buildings that are developed as part of a remediation project.

(22) "Remediation" includes:

(a) activities for the cleanup, rehabilitation, and development of contaminated land; and

(b) acquiring an interest in land within a remediation project area.

(23) "Remediation differential" means property tax differential generated from a remediation project area.

(24) "Remediation project" means a project for the remediation of contaminated land that:

(a) is owned by:

(i) the state or a department, division, or other instrumentality of the state;

(ii) an independent entity, as defined in Section 63E-1-102; or

(iii) a political subdivision of the state; and

(b) became contaminated land before the owner described in Subsection (24)(a) obtained ownership of the land.

(25) "Remediation project area" means a project area consisting of contaminated land that is or is expected to become the subject of a remediation project.

(26) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

(27) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(28) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(29) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Amended by Chapter 16, 2023 General Session
Amended by Chapter 259, 2023 General Session

11-58-103 Vested right of landowner.

(1) As used in this section:
  (a) "Municipal inland port regulations" means a municipality's land use ordinances and regulations relating to the use of land within the authority jurisdictional land for an inland port use.
  (b) "Vested development right" means a right:
    (i) to use or develop land located within the authority jurisdictional land for an inland port use in accordance with municipal inland port regulations in effect on December 31, 2018; and
    (ii) that may not be affected by later changes to municipal ordinances or regulations.
  (c) "Vested right notice" means a notice that complies with the requirements of Subsection (3).
(2) An owner of land located within the boundary of the authority jurisdictional land may establish a vested development right on that land by causing a notice to be recorded in the office of the recorder of the county in which the land is located.
(3) A notice under Subsection (2) shall:
  (a) state that the owner elects to establish a vested development right on the owner's land to use or develop the land for an inland port use in accordance with municipal inland port regulations in effect on December 31, 2018;
  (b) state that the owner's election is made under Title 11, Chapter 58, Utah Inland Port Authority Act;
  (c) describe the land in a way that complies with applicable requirements for the recording of an instrument affecting land;
  (d) indicate the zoning district in which the land is located, including any overlay district;
  (e) bear the signature of each owner of the land;
  (f) be accompanied by the applicable recording fee; and
  (g) include the following acknowledgment:

"I/we acknowledge that:

• the land identified in this notice is situated within the authority jurisdictional land of the Utah Inland Port Authority, established under Utah Code Title 11, Chapter 58, Utah Inland Port Authority Act, and is eligible for this election of a vested right;

• this vested right allows the land described in this notice to be used or developed in the manner allowed by applicable land use regulations in effect on December 31, 2018;

• all development activity must comply with those land use regulations;

• the right to use and develop the land described in this notice in accordance with those land use regulations continues for 40 years from the date this notice is recorded, unless a land use application is submitted to the applicable land use authority that proposes a use or development activity that is not allowed under the land use regulations in effect on December 31, 2018, or all record owners of the land record a rescission of the election of a vested development right for this land.".

(4)
  (a) An owner of land against which a vested right notice is recorded has a vested development right with respect to that land for 40 years from the date the vested right notice is recorded, or, if earlier, until the vested development right is rescinded by the recording of a rescission of the election of the vested development right signed by all record owners of the land.

(b) A vested development right may not be affected by changes to municipal ordinances or regulations that occur after a vested right notice is recorded.
(5) Within 10 days after the recording of a vested right notice under this section, the owner of the land shall provide a copy of the vested right notice, with recording information, to the applicable local land use authority.
(6) A vested development right may not be affected by an action under Subsection 17-27a-508(1)(a)(ii)(A) or (B) or Subsection 10-9a-509(1)(a)(ii)(A) or (B).

Enacted by Chapter 126, 2020 General Session

11-58-104 Severability.

If a court determines that any provision of this chapter, or the application of any provision of this chapter, is invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

Enacted by Chapter 126, 2020 General Session

11-58-105 Nonlapsing funds.

Money the authority receives from legislative appropriations is nonlapsing.

Enacted by Chapter 126, 2020 General Session

11-58-106 Loan approval committee -- Approval of infrastructure loans.

(1) As used in this section:
(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.
(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.
(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.
(d) "Inland port fund" means the same as that term is defined in Section 63A-3-401.5.
(e) "Loan approval committee" means a committee established under Subsection (2).
(2)
(a) The authority shall establish a loan committee consisting of:
(i) two individuals with expertise in public finance or infrastructure development, appointed by the governor;
(ii) one individual with expertise in public finance or infrastructure development, appointed by the president of the Senate;
(iii) one individual with expertise in public finance or infrastructure development, appointed by the speaker of the House of Representatives; and
(iv) one individual with expertise in public finance or infrastructure development, appointed jointly by the president of the Senate and the speaker of the House of Representatives.
(b) A board member may not be appointed to or serve as a member of the loan committee.
(3)
(a) The loan committee may recommend for board approval an infrastructure loan from the inland port fund to a borrower for an infrastructure project undertaken by the borrower.
(b) An infrastructure loan from the inland port fund may not be made unless:
(i) the infrastructure loan is recommended by the loan committee; and
(ii) the board approves the infrastructure loan.
(4)

(a) If the loan committee recommends an infrastructure loan, the loan committee shall recommend the terms of an infrastructure loan in accordance with Section 63A-3-404.
(b) The board shall require the terms of an infrastructure loan secured by property tax differential to include a requirement that money from the infrastructure loan be used only for an infrastructure project within the project area that generates the property tax differential.
(5)
(a) The board may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.
(b) With respect to infrastructure loan requests for an infrastructure project on authority jurisdictional land, the policies and guidelines established under Subsection (5)(a) shall give priority to an infrastructure loan request that furthers the policies and best practices incorporated into the environmental sustainability component of the authority's business plan under Subsection 11-58-202(1)(a).
(6) Within 60 days after the execution of an infrastructure loan, the board shall report the infrastructure loan, including the loan amount, terms, interest rate, and security, to:
(a) the Executive Appropriations Committee; and
(b) the State Finance Review Commission created in Section 63C-25-201.
(7)
(a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.
(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:
(i) Sections 63A-3-106 and 63A-3-107; and
(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 259, 2023 General Session

Part 2
Utah Inland Port Authority

11-58-201 Creation of Utah Inland Port Authority -- Status and purposes.

(1) Under the authority of Article XI, Section 8 of the Utah Constitution, there is created the Utah Inland Port Authority.
(2) The authority is:
(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession;
(b) a political subdivision of the state; and
(c) a public corporation, as defined in Section 63E-1-102.
(3)
(a) The purpose of the authority is to fulfill the statewide public purpose of working in concert with applicable state and local government entities, property owners and other private parties, and other stakeholders to encourage and facilitate development of the authority jurisdictional land and land in other authority project areas to maximize the long-term economic and other

benefit for the state, consistent with the strategies, policies, and objectives described in this chapter, including:
(i) the development of inland port uses on the authority jurisdictional land and on land in other authority project areas;
(ii) the development of infrastructure to support inland port uses and associated uses on the authority jurisdictional land and on land in other authority project areas; and
(iii) other development on the authority jurisdictional land and on land in other authority project areas.
(b) The duties and responsibilities of the authority under this chapter are beyond the scope and capacity of a municipality, which has many other responsibilities and functions that appropriately command the attention and resources of the municipality, and are not municipal functions of purely local concern but are matters of regional and statewide concern, importance, interest, and impact, due to multiple factors, including:
(i) the strategic location of the authority jurisdictional land in proximity to significant existing and potential transportation infrastructure, including infrastructure provided and maintained by the state, conducive to facilitating regional, national, and international trade and the businesses and facilities that promote and complement that trade;
(ii) the enormous potential for regional and statewide economic and other benefit that can come from the appropriate development of the authority jurisdictional land, including the establishment of a thriving inland port;
(iii) the regional and statewide impact that the development of the authority jurisdictional land will have; and
(iv) the considerable investment the state is making in connection with the development of the new correctional facility and associated infrastructure located on the authority jurisdictional land.
(c) The authority is the mechanism the state chooses to focus resources and efforts on behalf of the state to ensure that the regional and statewide interests, concerns, and purposes described in this Subsection (3) are properly addressed from more of a statewide perspective than any municipality can provide.

Amended by Chapter 399, 2019 General Session

11-58-202 Authority powers and duties.

(1) The authority has exclusive jurisdiction, responsibility, and power to coordinate the efforts of all applicable state and local government entities, property owners and other private parties, and other stakeholders to:
(a) develop and implement a business plan for the authority jurisdictional land, to include an environmental sustainability component, developed in conjunction with the Utah Department of Environmental Quality, incorporating policies and best practices to meet or exceed applicable federal and state standards, including:
(i) emissions monitoring and reporting; and
(ii) strategies that use the best available technology to mitigate environmental impacts from development and uses on the authority jurisdictional land;
(b) plan and facilitate the development of inland port uses on authority jurisdictional land and on land in other authority project areas;
(c) manage any inland port located on land owned or leased by the authority; and
(d) establish a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land or land in other authority project areas.

(2) The authority may:
(a) facilitate and bring about the development of inland port uses on land that is part of the authority jurisdictional land or that is in other authority project areas, including engaging in marketing and business recruitment activities and efforts to encourage and facilitate:
(i) the development of an inland port on the authority jurisdictional land; and
(ii) other development of the authority jurisdictional land consistent with the policies and objectives described in Subsection 11-58-203(1);
(b) facilitate and provide funding for the development of land in a project area, including the development of public infrastructure and improvements and other infrastructure and improvements on or related to land in a project area;
(c) engage in marketing and business recruitment activities and efforts to encourage and facilitate development of the authority jurisdictional land;
(d) apply for and take all other necessary actions for the establishment of a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land;
(e) as the authority considers necessary or advisable to carry out any of its duties or responsibilities under this chapter:
(i) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;
(ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property; or
(iii) enter into a lease agreement on real or personal property, either as lessee or lessor;
(f) sue and be sued;
(g) enter into contracts generally;
(h) provide funding for the development of public infrastructure and improvements or other infrastructure and improvements on or related to the authority jurisdictional land or other authority project areas;
(i) exercise powers and perform functions under a contract, as authorized in the contract;
(j) receive the property tax differential, as provided in this chapter;
(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;
(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;
(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Chapter 17, Utah Industrial Facilities and Development Act, bonds under Chapter 42, Assessment Area Act, and bonds under Chapter 42a, Commercial Property Assessed Clean Energy Act;
(n) hire employees, including contract employees;
(o) transact other business and exercise all other powers provided for in this chapter;
(p) engage one or more consultants to advise or assist the authority in the performance of the authority's duties and responsibilities;
(q) work with other political subdivisions and neighboring property owners and communities to mitigate potential negative impacts from the development of authority jurisdictional land;
(r) own, lease, operate, or otherwise control public infrastructure and improvements in a project area;
(s) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;
(t) develop and implement world-class, state-of-the-art, zero-emissions logistics to:

(i) support continued growth of the state's economy;
(ii) promote the state as the global center of efficient and sustainable supply chain logistics;
(iii) facilitate the efficient movement of goods on roads and rails and through the air; and
(iv) benefit the commercial viability of tenants and users; and
(u) attract capital and expertise in pursuit of the next generation of logistics solutions.
(3)
(a) Beginning April 1, 2020, the authority shall:
(i) be the repository of the official delineation of the boundary of the authority jurisdictional land, identical to the boundary as delineated in the shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session, subject to Subsection (3)(b) and any later changes to the boundary enacted by the Legislature; and
(ii) maintain an accurate digital file of the boundary that is easily accessible by the public.
(b)
(i) As used in this Subsection (3)(b), "split property" means a piece of land:
(A) with a single tax identification number; and
(B) that is partly included within and partly excluded from the authority jurisdictional land by the boundary delineated in the shapefile described in Subsection 11-58-102(2).
(ii) With the consent of the mayor of the municipality in which the split property is located, the executive director may adjust the boundary of the authority jurisdictional land to include an excluded portion of a split property or exclude an included portion of a split property.
(iii) In adjusting the boundary under Subsection (3)(b)(ii), the executive director shall consult with the county assessor, the county surveyor, the owner of the split property, and the municipality in which the split property is located.
(iv) A boundary adjustment under this Subsection (3)(b) affecting the northwest boundary of the authority jurisdictional land shall maintain the buffer area between authority jurisdictional land intended for development and land outside the boundary of the authority jurisdictional land to be preserved from development.
(v) Upon completing boundary adjustments under this Subsection (3)(b), the executive director shall cause to be recorded in the county recorder's office a map or other description, sufficient for purposes of the county recorder, of the adjusted boundary of the authority jurisdictional land.
(vi) The authority shall modify the official delineation of the boundary of the authority jurisdictional land under Subsection (3)(a) to reflect a boundary adjustment under this Subsection (3)(b).
(4)
(a) The authority may establish a community enhancement program designed to address the impacts that development or inland port uses within project areas have on adjacent communities.
(b)
(i) The authority may use authority money to support the community enhancement program and to pay for efforts to address the impacts described in Subsection (4)(a).
(ii) Authority money designated for use under Subsection (4)(b)(i) is exempt from execution or any other process in the collection of a judgment against or debt or other obligation of the authority arising out of the authority's activities with respect to the community enhancement program.

Amended by Chapter 32, 2022 General Session
Amended by Chapter 82, 2022 General Session

11-58-203 Policies and objectives of the authority -- Additional duties of the authority.

(1) The policies and objectives of the authority are to:

(a) maximize long-term economic benefits to the area, the region, and the state;

(b) maximize the creation of high-quality jobs;

(c) respect and maintain sensitivity to the unique natural environment of areas in proximity to the authority jurisdictional land and land in other authority project areas;

(d) improve air quality and minimize resource use;

(e) respect existing land use and other agreements and arrangements between property owners within the authority jurisdictional land and within other authority project areas and applicable governmental authorities;

(f) promote and encourage development and uses that are compatible with or complement uses in areas in proximity to the authority jurisdictional land or land in other authority project areas;

(g) take advantage of the authority jurisdictional land's strategic location and other features, including the proximity to transportation and other infrastructure and facilities, that make the authority jurisdictional land attractive to:

(i) businesses that engage in regional, national, or international trade; and

(ii) businesses that complement businesses engaged in regional, national, or international trade;

(h) facilitate the transportation of goods;

(i) coordinate trade-related opportunities to export Utah products nationally and internationally;

(j) support and promote land uses on the authority jurisdictional land and land in other authority project areas that generate economic development, including rural economic development;

(k) establish a project of regional significance;

(l) facilitate an intermodal facility;

(m) support uses of the authority jurisdictional land for inland port uses, including warehousing, light manufacturing, and distribution facilities;

(n) facilitate an increase in trade in the region and in global commerce;

(o) promote the development of facilities that help connect local businesses to potential foreign markets for exporting or that increase foreign direct investment;

(p) encourage all class 5 though 8 designated truck traffic entering the authority jurisdictional land to meet the heavy-duty highway compression-ignition diesel engine and urban bus exhaust emission standards for year 2007 and later;

(q) encourage the development and use of cost-efficient renewable energy in project areas;

(r) aggressively pursue world-class businesses that employ cutting-edge technologies to locate within a project area; and

(s) pursue land remediation and development opportunities for publicly owned land to add value to a project area.

(2) In fulfilling its duties and responsibilities relating to the development of the authority jurisdictional land and land in other authority project areas and to achieve and implement the development policies and objectives under Subsection (1), the authority shall:

(a) work to identify funding sources, including federal, state, and local government funding and private funding, for capital improvement projects in and around the authority jurisdictional land and land in other authority project areas and for an inland port;

(b) review and identify land use and zoning policies and practices to recommend to municipal land use policymakers and administrators that are consistent with and will help to achieve:

(i) the policies and objectives stated in Subsection (1); and

(ii) the mutual goals of the state and local governments that have authority jurisdictional land with their boundaries with respect to the authority jurisdictional land;
(c) consult and coordinate with other applicable governmental entities to improve and enhance transportation and other infrastructure and facilities in order to maximize the potential of the authority jurisdictional land to attract, retain, and service users who will help maximize the long-term economic benefit to the state; and
(d) pursue policies that the board determines are designed to avoid or minimize negative environmental impacts of development.
(3) The board may consider the emissions profile of road, yard, or rail vehicles:
(a) in determining access by those vehicles to facilities that the authority owns or finances; or
(b) in setting fees applicable to those vehicles for the use of facilities that the authority owns or finances.

Amended by Chapter 82, 2022 General Session

11-58-205 Applicability of other law -- Cooperation of state and local governments -- Municipality to consider board input -- Prohibition relating to natural resources -- Inland port as permitted or conditional use -- Municipal services -- Disclosure by nonauthority governing body member -- Services from state agencies -- Procurement policy.
(1) Except as otherwise provided in this chapter, the authority does not have and may not exercise any powers relating to the regulation of land uses on the authority jurisdictional land.
(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.
(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.
(4) In making decisions affecting the authority jurisdictional land, the legislative body of a municipality in which the authority jurisdictional land is located shall consider input from the authority board.
(5)
(a) No later than December 31, 2018, the ordinances of a municipality with authority jurisdictional land within its boundary shall allow an inland port as a permitted or conditional use, subject to standards that are:
(i) determined by the municipality; and
(ii) consistent with the policies and objectives stated in Subsection 11-58-203(1).
(b) A municipality whose ordinances do not comply with Subsection (5)(a) within the time prescribed in that subsection shall allow an inland port as a permitted use without regard to any contrary provision in the municipality's land use ordinances.
(6) The transporting, unloading, loading, transfer, or temporary storage of natural resources may not be prohibited on the authority jurisdictional land.
(7)
(a) A municipality whose boundary includes authority jurisdictional land shall provide the same municipal services to the area of the municipality that is within the authority jurisdictional land as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(b) The level and quality of municipal services that a municipality provides within authority jurisdictional land shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(8)

(a) As used in this Subsection (8):

(i) "Direct financial benefit" means the same as that term is defined in Section 11-58-304.

(ii) "Nonauthority governing body member" means a member of the board or other body that has authority to make decisions for a nonauthority government owner.

(iii) "Nonauthority government owner" mean a state agency or nonauthority local government entity that owns land that is part of the authority jurisdictional land.

(iv) "Nonauthority local government entity":

(A) means a county, city, town, metro township, special district, special service district, community reinvestment agency, or other political subdivision of the state; and

(B) excludes the authority.

(v) "State agency" means a department, division, or other agency or instrumentality of the state, including an independent state agency.

(b) A nonauthority governing body member who owns or has a financial interest in land that is part of the authority jurisdictional land or who reasonably expects to receive a direct financial benefit from development of authority jurisdictional land shall submit a written disclosure to the authority board and the nonauthority government owner.

(c) A written disclosure under Subsection (8)(b) shall describe, as applicable:

(i) the nonauthority governing body member's ownership or financial interest in property that is part of the authority jurisdictional land; and

(ii) the direct financial benefit the nonauthority governing body member expects to receive from development of authority jurisdictional land.

(d) A nonauthority governing body member required under Subsection (8)(b) to submit a written disclosure shall submit the disclosure no later than 30 days after:

(i) the nonauthority governing body member:

(A) acquires an ownership or financial interest in property that is part of the authority jurisdictional land; or

(B) first knows that the nonauthority governing body member expects to receive a direct financial benefit from the development of authority jurisdictional land; or

(ii) the effective date of this Subsection (8), if that date is later than the period described in Subsection (8)(d)(i).

(e) A written disclosure submitted under this Subsection (8) is a public record.

(9)

(a) The authority may request and, upon request, shall receive:

(i) fuel dispensing and motor pool services provided by the Division of Fleet Operations;

(ii) surplus property services provided by the Division of Purchasing and General Services;

(iii) information technology services provided by the Division of Technology Services;

(iv) archive services provided by the Division of Archives and Records Service;

(v) financial services provided by the Division of Finance;

(vi) human resources services provided by the Division of Human Resource Management;

(vii) legal services provided by the Office of the Attorney General; and

(viii) banking services provided by the Office of the State Treasurer.

(b) Nothing in Subsection (9)(a) may be construed to relieve the authority of the obligation to pay the applicable fee for the service provided.

(10)
  (a) To govern authority procurements, the board shall adopt a procurement policy that the board determines to be substantially consistent with applicable provisions of Title 63G, Chapter 6a, Utah Procurement Code.
  (b) The board may delegate to the executive director the responsibility to adopt a procurement policy.
  (c) The board's determination under Subsection (10)(a) of substantial consistency is final and conclusive.

Amended by Chapter 16, 2023 General Session
Amended by Chapter 259, 2023 General Session

11-58-206 Port authority funds.

The authority may use authority funds for any purpose authorized under this chapter, including:
(1) promoting, facilitating, and advancing inland port uses;
(2) owning and operating an intermodal facility;
(3) the remediation of contaminated land within a project area; and
(4) paying any consulting fees and staff salaries and other administrative, overhead, legal, and operating expenses of the authority.

Amended by Chapter 259, 2023 General Session

11-58-208 New aviation fuel incentive -- Requirements.

(1) As used in this section:
  (a) "Aviation fuel" means fuel that is:
    (i) used by a carrier; and
    (ii) subject to an aviation fuel tax under Title 59, Chapter 13, Part 4, Aviation Fuel.
  (b) "Aviation fuel incentive" means a grant awarded by the authority to a qualifying carrier from the incentive account as provided in this section.
  (c) "Aviation fuel project" means a project for the development of facilities in the state to increase the production of aviation fuel.
  (d) "Base production year" means the fiscal year designated by the authority under Subsection (3).
  (e) "Carrier" means a federally certificated air carrier, as defined in Section 59-13-102.
  (f) "Commission" means the State Tax Commission.
  (g) "Incentive account" means an account that the authority establishes and maintains under Subsection (4) and from which the authority pays an aviation fuel incentive.
  (h) "Incentive year" means any of the first 10 consecutive fiscal years immediately following the base production year.
  (i) "New aviation fuel" means the quantity of aviation fuel produced by a refinery during an incentive year that exceeds the quantity of aviation fuel produced by the refinery during the base production year.
  (j) "Qualifying carrier" means a carrier that meets the requirements of Subsection (4).
  (k) "Refinery" means the same as that term is defined in Section 79-6-701.
(2) As provided in this section, the authority may award a grant of up to $1,000,000 per incentive year from the incentive account to a carrier that the authority determines to be a qualifying carrier.

(3) The authority shall designate as the base production year the fiscal year that the authority determines to be the fiscal year that precedes the first fiscal year during which new aviation fuel is expected to be produced.
(4)
(a) The authority shall establish and maintain an account for the deposit of money under Section 59-5-121 and for the authority's payment of aviation fuel incentives under this section.
(b) The authority shall maintain and account for money in the account described in Subsection (4)(a) separate from all other money of the authority.
(5) A carrier that seeks to be awarded an aviation fuel incentive for a fiscal year shall:
(a) submit to the authority an application that meets the requirements of Subsection (6); and
(b) demonstrate to the authority's satisfaction that:
(i) a refinery from which the carrier purchases aviation fuel has invested at least $5,000,000 since May 3, 2023 in an aviation fuel project; and
(ii) due to the aviation fuel project, the refinery, during an incentive year:
(A) has produced at least 4,500,000 gallons more aviation fuel for use by carriers in the state than the refinery produced during the base production year; and
(B) has not produced less gas and diesel fuel than the refinery produced during the base production year.
(6)
(a) An application under Subsection (5) shall include information that the authority determines to be relevant to the authority's determination of whether the carrier qualifies for an aviation fuel incentive, including:
(i) for the application for the first incentive year that the carrier submits an application under this section:
(A) the amount of the refinery's investment in an aviation fuel project; and
(B) the quantity of aviation fuel and gas and diesel fuel produced by the refinery during the base production year;
(ii) the quantity of aviation fuel and gas and diesel fuel produced by the refinery during the applicable incentive year; and
(iii) verification that the new aviation fuel was produced for use by a carrier in the state.
(b) An application under Subsection (5) shall be submitted to the authority before a deadline established by the authority.
(c) Multiple carriers may not rely on the same refinery to support the carriers' applications for an aviation fuel incentive.
(7)
(a) A carrier may receive an aviation fuel incentive for no more than 15 consecutive incentive years.
(b) The maximum cumulative amount a carrier may receive as an aviation fuel incentive is $10,000,000 or one-third of the amount the refineries represented in the carrier's applications invested in an aviation fuel project, whichever is less.
(c) The authority may not award aviation fuel incentives in excess of the amount that the Division of Finance deposits into the incentive account under Section 59-5-121.
(d) If more than one carrier qualifies for an aviation fuel incentive in an incentive year, the authority shall prorate money granted to qualifying carriers based on the percentage of new aviation fuel produced by the refineries represented in a carrier's application as compared to the total amount of new aviation fuel produced by all refineries represented in the applications of all qualifying carriers.
(8)

(a) For purposes of determining whether a carrier meets the requirements to be a qualifying carrier, the authority may require a carrier that submits an application for an aviation fuel incentive to provide the authority with a document that expressly directs and authorizes the commission to disclose to the authority the carrier's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code.
(b) Upon the commission's receipt of a document described in Subsection (8)(a), the commission shall provide the authority with the returns and other information requested by the authority that the document directs and authorizes the commission to provide to the authority.
(9) The authority may adopt a policy establishing:
(a) the application and reporting criteria for a carrier to receive an aviation fuel incentive under this section; and
(b) procedures for establishing the base production year.
(10)
(a) Within 90 days after the end of the 15th fiscal year after the base production year, the authority shall pay to the Division of Finance all money in the account that the port authority has not awarded by grant under this section.
(b) Any money that the authority pays to the Division of Finance under Subsection (10)(a) is considered to be severance tax revenue collected under Section 59-5-102 in the fiscal year during which the authority pays the money to the Division of Finance.

Enacted by Chapter 537, 2023 General Session

Part 3
Port Authority Board

11-58-301 Port authority board -- Delegation of power.
(1) The authority shall be governed by a board which shall manage and conduct the business and affairs of the authority and shall determine all questions of authority policy.
(2) All powers of the authority are exercised through the board or, as provided in Section 11-58-305, the executive director.
(3) The board may by resolution delegate powers to authority staff.

Amended by Chapter 126, 2020 General Session

11-58-302 Number of board members -- Appointment -- Vacancies.
(1) The authority's board shall consist of five voting members, as provided in Subsection (2).
(2)
(a) The governor shall appoint as board members two individuals who are not elected government officials:
(i) one of whom shall be an individual engaged in statewide economic development or corporate recruitment and retention; and
(ii) one of whom shall be an individual engaged in statewide trade, import and export activities, foreign direct investment, or public-private partnerships.
(b) The president of the Senate shall appoint as a board member one individual with relevant business expertise.

(c) The speaker of the House of Representatives shall appoint as a board member one individual with relevant business expertise.
(d) The president of the Senate and speaker of the House of Representatives shall jointly appoint as a board member one individual with relevant business expertise.
(3)
(a) The board shall include three nonvoting board members.
(b) The board shall appoint as nonvoting board members two individuals with expertise in transportation and logistics.
(c) One of the nonvoting board members shall be a member of the Salt Lake City Council, designated by the Salt Lake City Council, who represents a council district whose boundary includes authority jurisdictional land.
(d) The board may set the term of office for nonvoting board members appointed under Subsection (3)(b).
(4) An individual required under Subsection (2) to appoint a board member shall appoint each initial board member the individual is required to appoint no later than June 1, 2022.
(5)
(a) A vacancy in the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.
(b) A person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.
(6) A member of the board appointed under Subsection (2) serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the individual or individuals who appointed the member.
(7) Upon a vote of a majority of all voting members, the board may appoint a board chair and any other officer of the board.
(8) The board may appoint one or more advisory committees that may include individuals from impacted public entities, community organizations, environmental organizations, business organizations, or other organizations or associations.

Amended by Chapter 259, 2023 General Session

11-58-303 Term of board members -- Quorum -- Compensation.
(1) The term of a board member appointed under Subsection 11-58-302(2) is four years, except that the initial term of one of the two members appointed under Subsection 11-58-302(2)(a) and of the member appointed under Subsection 11-58-302(2)(d) is two years.
(2) Each board member shall serve until a successor is duly appointed and qualified.
(3) A board member may serve multiple terms if duly appointed to serve each term under Subsection 11-58-302(2).
(4) A majority of voting members constitutes a quorum, and the action of a majority of voting members constitutes action of the board.
(5)
(a) A board member who is not a legislator may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member as allowed in:
(i) Sections 63A-3-106 and 63A-3-107; and
(ii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Amended by Chapter 259, 2023 General Session

11-58-304 Limitations on board members and executive director.

(1) As used in this section:
(a) "Direct financial benefit":
(i) means any form of financial benefit that accrues to an individual directly, including:
(A) compensation, commission, or any other form of a payment or increase of money; and
(B) an increase in the value of a business or property; and
(ii) does not include a financial benefit that accrues to the public generally.
(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2) An individual may not serve as a voting member of the board or as executive director if:
(a) the individual owns real property, other than a personal residence in which the individual resides, within a project area, whether or not the ownership interest is a recorded interest;
(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located within a project area; or
(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the individual reasonably believes is likely to:
(i) participate in or receive a direct financial benefit from the development of the authority jurisdictional land; or
(ii) acquire an interest in or locate a facility within a project area.

(3) Before taking office as a voting member of the board or accepting employment as executive director, an individual shall submit to the authority a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2).

(4)
(a) An individual may not, at any time during the individual's service as a voting member or employment with the authority, acquire, or take any action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property located within a project area, if:
(i) the acquisition is in the individual's personal capacity or in the individual's capacity as an employee or officer of a private firm, private company, or other private entity; and
(ii) the acquisition will enable the individual to receive a direct financial benefit as a result of the development of the project area.
(b) Subsection (4)(a) does not apply to an individual's acquisition of, or action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property that is a personal residence in which the individual will reside upon acquisition of the real property.

(5)
(a) A voting member or nonvoting member of the board or an employee of the authority may not receive a direct financial benefit from the development of a project area.
(b) For purposes of Subsection (5)(a), a direct financial benefit does not include:
(i) expense reimbursements;
(ii) per diem pay for board member service, if applicable; or
(iii) an employee's compensation or benefits from employment with the authority.

(6) Nothing in this section may be construed to affect the application or effect of any other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Amended by Chapter 82, 2022 General Session

11-58-305 Executive director.

(1) The board shall hire and oversee a full-time executive director.

(2)

(a) The executive director is the chief executive officer of the authority.

(b) The role of the executive director is to:

(i) manage and oversee the day-to-day operations of the authority;

(ii) fulfill the executive and administrative duties and responsibilities of the authority; and

(iii) perform other functions, as directed by the board.

(3) The executive director shall have the education, experience, and training necessary to perform the executive director's duties in a way that maximizes the potential for successfully achieving and implementing the strategies, policies, and objectives stated in Subsection 11-58-203(1).

(4) An executive director is an at-will employee who serves at the pleasure of the board and may be removed by the board at any time.

(5) The board shall establish the duties, compensation, and benefits of an executive director.

Amended by Chapter 82, 2022 General Session

Part 5
Project Area Plan and Budget

11-58-501 Preparation of project area plan -- Required contents of project area plan.

(1)

(a) Subject to Section 11-58-605, the authority jurisdictional land constitutes a single project area.

(b) The authority is not required to adopt a project area plan for a project area consisting of the authority jurisdictional land.

(2)

(a) The board may adopt a project area plan for land that is outside the authority jurisdictional land, as provided in this part, if the board receives written consent to include the land in the project area described in the project area plan from, as applicable:

(i) the legislative body of the county in whose unincorporated area the land is located; or

(ii) the legislative body of the municipality in which the land is located.

(b)

(i) An owner of land proposed to be included within a project area may request that the owner's land be excluded from the project area.

(ii) A request under Subsection (2)(b)(i) shall be submitted to the board:

(A) in writing; and

(B) no more than 45 days after the public meeting under Subsection 11-58-502(1).

(c) Land included or to be included within a project area need not be contiguous or in close proximity to the authority jurisdictional land.

(d) In order to adopt a project area plan, the board shall:

(i) prepare a draft project area plan;

(ii) give notice as required under Subsection 11-58-502(2);

(iii) hold at least one public meeting, as required under Subsection 11-58-502(1); and

(iv) after holding at least one public meeting and subject to Subsections (2)(b) and (e), adopt the draft project area plan as the project area plan.

(e) Before adopting a draft project area plan as the project area plan, the board:
(i) shall eliminate from the proposed project area the land of any owner who requests the owner's land to be excluded from the project area under Subsection (2)(b); and
(ii) may make other modifications to the draft project area plan that the board considers necessary or appropriate.
(3) Each project area plan and draft project area plan shall contain:
(a) a legal description of the boundary of the project area;
(b) the authority's purposes and intent with respect to the project area; and
(c) the board's findings and determination that:
(i) there is a need to effectuate a public purpose;
(ii) there is a public benefit to the proposed development project;
(iii) it is economically sound and feasible to adopt and carry out the project area plan; and
(iv) carrying out the project area plan will promote the goals and objectives stated in Subsection 11-58-203(1).

Amended by Chapter 259, 2023 General Session

11-58-502 Public meeting to consider and discuss draft project area plan -- Notice -- Adoption of plan.
(1) The board shall hold at least one public meeting to consider and discuss a draft project area plan.
(2) At least 10 days before holding a public meeting under Subsection (1), the board shall give notice of the public meeting:
(a) to each taxing entity;
(b) to a municipality in which the proposed project area is located or that is located within one-half mile of the proposed project area; and
(c) for the proposed project area, as a class A notice under Section 63G-30-102, for at least 10 days.
(3) Following consideration and discussion of the draft project area plan, and any modification of the project area plan under Subsection 11-58-501(2)(d), the board may adopt the draft project area plan or modified draft project area plan as the project area plan.

Amended by Chapter 435, 2023 General Session

11-58-503 Notice of project area plan adoption -- Effective date of plan -- Time for challenging a project area plan or project area.
(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (2) by publishing or causing to be published legal notice:
(a) for the project area, as a class A notice under Section 63G-30-102, for at least 30 days; and
(b) as required by Section 45-1-101.
(2)
(a) Each notice under Subsection (1) shall include:
(i) the board resolution adopting the project area plan or a summary of the resolution; and
(ii) a statement that the project area plan is available for general public inspection and the hours for inspection.
(b) The statement required under Subsection (2)(a)(ii) may be included within the board resolution adopting the project area plan or within the summary of the resolution.
(3) The project area plan shall become effective on the date designated in the board resolution.

(4) The authority shall make the adopted project area plan available to the general public at the authority's offices during normal business hours.
(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:
  (a) the State Tax Commission;
  (b) the Utah Geospatial Resource Center created in Section 63A-16-505; and
  (c) the assessor and recorder of each county where the project area is located.
(6)
  (a) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.
  (b) A legal action or other challenge to a project area that consists of authority jurisdictional land is barred unless brought within 30 days after the board adopts a business plan under Subsection 11-58-202(1)(a) for the authority jurisdictional land.

Amended by Chapter 435, 2023 General Session

11-58-504 Amendment to a project area plan.
(1) The authority may amend a project area plan by following the same procedure under this part as applies to the adoption of a project area plan.
(2) The provisions of this part apply to the authority's adoption of an amendment to a project area plan to the same extent as they apply to the adoption of a project area plan.

Enacted by Chapter 179, 2018 General Session

11-58-505 Project area budget.
(1) Before the authority may use the property tax differential from a project area, the board shall prepare and adopt a project area budget.
(2) A project area budget shall include:
  (a) the base taxable value of property in the project area;
  (b) the projected property tax differential expected to be generated within the project area;
  (c) the amount of the property tax differential expected to be used to implement the project area plan, including the estimated amount of the property tax differential to be used for:
    (i) land acquisition;
    (ii) public infrastructure and improvements;
    (iii) a remediation project, if applicable; and
    (iv) loans, grants, or other incentives to private and public entities;
  (d) the property tax differential expected to be used to cover the cost of administering the project area plan;
  (e) the amount of property tax differential expected to be shared with other taxing entities; and
  (f) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.
(3) The board may amend an adopted project area budget as and when the board considers it appropriate.

(4) For a project area that consists of the authority jurisdictional land, the budget requirements of this part are met by the authority complying with the budget requirements of Part 8, Port Authority Budget, Reporting, and Audits.

Amended by Chapter 259, 2023 General Session

Part 6
Property Tax Differential

11-58-600.5 Definitions.

As used in this part:

(1) "General differential" means property tax differential generated by a property tax levied:
  (a) on property that is not part of the authority jurisdictional land or within a remediation project area; and
  (b) by all taxing entities.
(2) "Nonmunicipal differential" means property tax differential generated from a property tax imposed:
  (a) on property that is part of the authority jurisdictional land; and
  (b) by all taxing entities other than the primary municipality.
(3) "Primary municipality" means the municipality that has more authority jurisdictional land within the municipality's boundary than is included within the boundary of any other municipality.
(4) "Primary municipality differential" means property tax differential generated by a property tax levied:
  (a) on property in the reduced area; and
  (b) by the primary municipality.
(5) "Primary municipality's agency" means the community development and renewal agency created by a primary municipality.
(6) "Reduced area" means the authority jurisdictional land that is within a primary municipality, excluding:
  (a) an area described in Subsection 11-58-600.7(1);
  (b) a parcel of land described in Subsection 11-58-600.7(2); and
  (c) a remediation project area, if a remediation project area is created under Section 11-58-605.

Enacted by Chapter 259, 2023 General Session

11-58-600.7 Limit on tax differential the authority may receive from authority jurisdictional land.

The authority may not receive:

(1) a taxing entity's portion of property tax differential generated from an area that is part of the authority jurisdictional land and included within a community reinvestment project area under a community reinvestment project area plan, as defined in Section 17C-1-102, adopted before October 1, 2018, if the taxing entity has, before October 1, 2018, entered into a fully executed, legally binding agreement under which the taxing entity agrees to the use of the taxing entity's tax increment, as defined in Section 17C-1-102, under the community reinvestment project area plan; or
(2) property tax differential from a parcel of land:

(a) that is part of the authority jurisdictional land;
(b) that was substantially developed before December 1, 2018;
(c) for which a certificate of occupancy was issued before December 1, 2018; and
(d) that is identified in a list that the municipality in which the land is located provides to the authority and the county assessor by April 1, 2020.

Enacted by Chapter 259, 2023 General Session

11-58-601 General differential and nonmunicipal differential.

(1) As used in this section:
(a) "Designation resolution" means a resolution adopted by the board that designates a transition date for the parcel specified in the resolution.
(b) "Post-designation parcel" means a parcel within a project area after the transition date for that parcel.
(c) "Pre-designation parcel" means a parcel within a project area before the transition date for that parcel.
(d) "Transition date" means the date indicated in a designation resolution after which the parcel that is the subject of the designation resolution is a post-designation parcel.
(2) This section applies to nonmunicipal differential and general differential to be paid to the authority.
(3) The authority shall be paid 75% of nonmunicipal differential generated from a pre-designation parcel that is part of the authority jurisdictional land:
(a) for the period beginning November 2019 and ending the earlier of:
(i) the transition date for that parcel; and
(ii) November 30, 2044; and
(b) for a period of 15 years following November 2044 if, before the end of November 2044:
(i) the parcel has not become a post-designation parcel; and
(ii) the board adopts a resolution approving the 15-year extension.
(4)
(a) As provided in Subsection (4)(b), the authority shall be paid:
(i) 75% of nonmunicipal differential generated from a post-designation parcel that is part of the authority jurisdictional land; and
(ii) 75% of general differential generated from a post-designation parcel that is not part of the authority jurisdictional land.
(b) The property tax differential paid under Subsection (4)(a) from a post-designation parcel shall be paid:
(i) for a period of 25 years beginning on the transition date for that parcel; and
(ii) for a period of an additional 15 years beyond the period stated in Subsection (4)(b)(i) if the board determines by resolution that the additional years of nonmunicipal differential or general differential, as the case may be, from that parcel will produce a significant benefit.
(5)
(a) For purposes of this section, the authority may designate an improved portion of a parcel in a project area as a separate parcel.
(b) An authority designation of an improved portion of a parcel as a separate parcel under Subsection (5)(a) does not constitute a subdivision, as defined in Section 10-9a-103 or Section 17-27a-103.
(c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the authority as a separate parcel under Subsection (5)(a).

Amended by Chapter 259, 2023 General Session

11-58-602 Allowable uses of property tax differential and other funds.

(1)

(a) The authority may use money from property tax differential, money the authority receives from the state, money the authority receives under Subsection 59-12-205(2)(a)(ii)(C), and other money available to the authority:

(i) for any purpose authorized under this chapter;

(ii) for administrative, overhead, legal, consulting, and other operating expenses of the authority;

(iii) to pay for, including financing or refinancing, all or part of the development of land within a project area, including assisting the ongoing operation of a development or facility within the project area;

(iv) to pay the cost of the installation and construction of public infrastructure and improvements within the project area from which the property tax differential funds were collected;

(v) to pay the cost of the installation of public infrastructure and improvements outside a project area if the board determines by resolution that the infrastructure and improvements are of benefit to the project area;

(vi) to pay to a community reinvestment agency for affordable housing, as provided in Subsection 11-58-606(2);

(vii) to pay the principal and interest on bonds issued by the authority;

(viii) to pay the cost of acquiring a conservation easement on land that is part of or adjacent to authority jurisdictional land:

(A) for the perpetual preservation of the land from development; and

(B) to provide a buffer area between authority jurisdictional land intended for development and land outside the boundary of the authority jurisdictional land; and

(ix) subject to Subsection (1)(b), to encourage, incentivize, or require development that:

(A) mitigates noise, air pollution, light pollution, surface and groundwater pollution, and other negative environmental impacts;

(B) mitigates traffic congestion; or

(C) uses high efficiency building construction and operation.

(b)

(i)

(A) The authority shall establish minimum mitigation and environmental standards that a landowner is required to meet to qualify for the use of property tax differential under Subsection (1)(a)(ix) in the landowner's development.

(B) Minimum mitigation and environmental standards established under Subsection (1)(b)(i)(A) shall include a standard prohibiting the use of property tax differential as a business recruitment incentive, as defined in Section 11-58-603, for new commercial or industrial development or an expansion of existing commercial or industrial development within the authority jurisdictional land if the new or expanded development will consume on an annual basis more than 200,000 gallons of potable water per day.

(ii) In establishing minimum mitigation and environmental standards, the authority shall consult with:

(A) the municipality in which the development is expected to occur, for development expected to occur within a municipality; or

(B) the county in whose unincorporated area the development is expected to occur, for development expected to occur within the unincorporated area of a county.
(iii) The authority may not use property tax differential under Subsection (1)(a)(viii) for a landowner's development in a project area unless the minimum mitigation and environmental standards are followed with respect to that landowner's development.
(2) The authority may use revenue generated from the operation of public infrastructure operated by the authority or improvements, including an intermodal facility, operated by the authority to:
(a) operate and maintain the infrastructure or improvements; and
(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.
(3) The determination of the board under Subsection (1)(a)(v) regarding benefit to the project area is final.
(4) The authority may not use property tax differential revenue collected from one project area for a development project within another project area.
(5) The authority may use up to 10% of the general differential revenue generated from a project area to pay for affordable housing within or near the project area.
(6) The authority may share general differential funds with a taxing entity that levies a property tax on land within the project area from which the general differential is generated.
(7)
(a) As used in this Subsection (7):
(i) "Authority sales and use tax revenue" means money distributed to the authority under Subsection 59-12-205(2)(a)(ii)(C).
(ii) "Eligible county" means a county that would be entitled to receive sales and use tax revenue under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C).
(iii) "Eligible municipality" means a municipality that would be entitled to receive sales and use tax revenue under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C).
(iv) "Point of sale portion" means:
(A) for an eligible county, the amount of sales and use tax revenue the eligible county would have received under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C), excluding the retail sales portion; and
(B) for an eligible municipality, the amount of sales and use tax revenue the eligible municipality would have received under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C), excluding the retail sales portion.
(v) "Retail sales portion" means the amount of sales and use tax revenue collected under Subsection 59-12-205(2)(a)(ii)(A) from retail sales transactions that occur on authority jurisdictional land.
(b) Within 45 days after receiving authority sales and use tax revenue, the authority shall:
(i) distribute half of the point of sale portion to each eligible county and eligible municipality; and
(ii) distribute all of the retail sales portion to each eligible county and eligible municipality.

Amended by Chapter 259, 2023 General Session

11-58-603 Use of authority money for business recruitment incentive.
(1) As used in this section:
(a) "Business recruitment incentive" means the post-performance payment of property tax differential as an incentive for development within a project area, as provided in this section.
(b) "Incentive application" means an application for a business recruitment incentive.
(c) "Tax differential parcel" means a parcel of land where development activity occurs.

(2) The authority may use property tax differential as a business recruitment incentive as provided in this section.
(3) The board shall establish:
(a) the requirements for a person to qualify for a business recruitment incentive;
(b) the application timeline, documentation requirements, and approval criteria applicable to an incentive application; and
(c) the standards and criteria for approval of an incentive application.
(4)
(a) Subject to Subsection (4)(b), a person may qualify for a business recruitment incentive if:
(i) the person submits an incentive application according to requirements established by the board;
(ii) the person meets the requirements established by the board for a business recruitment incentive; and
(iii) the board approves the incentive application.
(b) A person may not qualify for a business recruitment incentive if the person's development project relates primarily to retail operations or the distribution of goods.
(5) The authority may pay a person, on a post-performance basis and as determined by the board, a percentage of property tax differential:
(a) generated from a tax differential parcel and paid to the authority; and
(b) for a specified period of time.

Amended by Chapter 259, 2023 General Session

11-58-604 Distribution and use of primary municipality differential.
(1) This section applies to the payment and use of primary municipality differential.
(2) Beginning the first tax year that begins on or after January 1, 2023:
(a) the authority shall be paid 25% of primary municipality differential:
(i) for the authority's use as provided in Subsection (4); and
(ii)
(A) for a period of 25 years beginning January 1, 2023; and
(B) for a period of time not exceeding an additional 15 years beyond the period stated in Subsection (2)(a)(ii)(A) if the board determines by resolution, adopted before the expiration of the 25-year period under Subsection (2)(a)(ii)(A), that the additional years will produce a significant benefit to the uses described in Subsection (4) and if the primary municipality and the authority agree to the additional period of time;
(b) the authority shall be paid, in addition to the amounts under Subsection (2)(a), a percentage, as defined in Subsection (3), of primary municipality differential for the authority's use as provided in Subsection (4); and
(c) the primary municipality shall be paid, for the primary municipality's use for municipal operations, all primary municipality differential remaining after the payment of primary municipality differential to the authority as required under Subsections (2)(a) and (b).
(3) The percentage of primary municipality differential paid to the authority as provided in Subsection (2)(b):
(a) shall be 40% for the first tax year that begins on or after January 1, 2023, decreasing 2% each year after the 2023 tax year, so that in 2029 the percentage is 28;
(b) beginning January 1, 2030, and for a period of seven years, shall be 10%;
(c) beginning January 1, 2037, and for a period of 11 years, shall be 8%; and
(d) after 2047, shall be 0%.

(4) Of the primary municipality differential the authority receives, the authority shall use:
(a) 40% for environmental mitigation projects within the authority jurisdictional land;
(b) 40% for mitigation projects, which may include a regional traffic study and an environmental impact mitigation analysis, for communities that are:
(i) within the primary municipality;
(ii) adjacent to the authority jurisdictional land; and
(iii) west of the east boundary of the right of way of a fixed guideway used, as of January 1, 2022, for commuter rail within the primary municipality; and
(c) 20% for economic development activities on the authority jurisdictional land.

Amended by Chapter 259, 2023 General Session

11-58-605 Creation of remediation project area and payment of remediation differential.
(1) As used in this section:
(a) "Remedial action plan" means a plan for the cleanup of contaminated land under a voluntary cleanup agreement under Title 19, Chapter 8, Voluntary Cleanup Program.
(b) "Subsidiary district" means a public infrastructure district that is a subsidiary of the authority.
(2) This section applies to a remediation project area and to remediation differential.
(3) The authority may adopt a resolution creating a remediation project area if the authority and the owner of contaminated land to be included in the remediation project area enter an agreement governing a remediation project within the remediation project area.
(4) If the authority adopts a resolution creating a remediation project area, the authority shall reconfigure the boundary of the project area that consists of the authority jurisdictional land to exclude the remediation project area.
(5) The authority may pay the costs of a remediation project from funds available to the authority, including funds of a subsidiary district.
(6)
(a) If the authority pays some or all the costs of a remediation project, the authority shall be paid 100% of the remediation differential, subject to Subsection (6)(b), until the authority is fully reimbursed for the costs the authority paid for the remediation project.
(b)
(i) Subject to Subsection (6)(b)(iii), the authority's use of remediation differential paid to the authority under Subsection (6)(a) is subject to any bonds of a subsidiary district issued before May 3, 2023 pledging property tax differential funds generated from the contaminated land.
(ii) Before using remediation differential to pay subsidiary district bonds described in Subsection (6)(b)(i), the authority shall use other funds available to the authority to pay the bonds.
(iii) A pledge of property tax differential under subsidiary district bonds issued before May 3, 2023 may be satisfied if:
(A) the authority or the subsidiary district pledges additional property tax differential, other than remediation differential, or other authority or subsidiary district funds to offset any decrease in property tax differential resulting from the payment under Subsection (6)(a) of remediation differential funds that would otherwise have been available to pay the subsidiary district bonds; and
(B) the pledge described in Subsection (6)(b)(iii)(A) is senior in right to any pledge of remediation differential for a commitment the authority makes in connection with a remediation project.

(7) If a remediation project is conducted pursuant to a remedial action plan, the use of the land that is the subject of the remediation project shall be consistent with the remedial action plan unless the change of use:

(a) occurs after the government owner, as defined in Subsection 63G-7-201(3)(b), is environmentally compliant, as defined in Subsection 63G-7-201(3)(b), with respect to the land that is the subject of the remediation project; and

(b) is approved by the board following a public hearing on the proposed change of use.

(8)

(a) Upon the authority receiving full reimbursement for the authority's payment of costs for a remediation project, the remediation project area is automatically and immediately dissolved and the land within the remediation project area automatically and immediately becomes part of the project area consisting of the authority jurisdictional land.

(b) The board shall take any action necessary to effectuate and reflect in authority project area records and any other applicable records the reincorporation of the remediation project area under Subsection (8)(a) into the project area consisting of the authority jurisdictional land.

Enacted by Chapter 259, 2023 General Session

11-58-606 Distribution of property tax differential.

(1) A county that collects property tax on property within a project area shall, in the manner and at the time provided in Section 59-2-1365:

(a) pay and distribute to the authority the property tax differential that the authority is entitled to be paid under this chapter; and

(b) pay and distribute to the primary municipality the primary municipality differential described in Subsection 11-58-604(2)(c).

(2) The authority shall pay to the primary municipality's agency, to be used for affordable housing as provided in Section 17C-1-412, 10% of all property tax differential that is:

(a) paid to the authority; and

(b) generated within the reduced area.

Enacted by Chapter 259, 2023 General Session

Part 7
Port Authority Bonds

11-58-701 Resolution authorizing issuance of port authority bonds -- Characteristics of bonds -- Notice.

(1) The authority may not issue bonds under this part unless the board first:

(a) adopts a parameters resolution for the bonds that sets forth:

(i) the maximum:

(A) amount of bonds;

(B) term; and

(C) interest rate; and

(ii) the expected security for the bonds; and

(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.

(2)
(a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.
(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing their issuance or the trust indenture under which they are issued.
(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:
(a) for the area within the authority's boundaries, as a class A notice under Section 63G-30-102, for at least 30 days; and
(b) as required in Section 45-1-101.
(4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).
(5) For a period of 30 days after the publication, any person in interest may contest:
(a) the legality of the resolution or proceeding;
(b) any bonds that may be authorized by the resolution or proceeding; or
(c) any provisions made for the security and payment of the bonds.
(6)
(a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in the district court of the county in which the person resides.
(b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).
(7) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:
(a) the Executive Appropriations Committee; and
(b) the State Finance Review Commission created in Section 63C-25-201.

Amended by Chapter 435, 2023 General Session

11-58-702 Sources from which bonds may be made payable -- Port authority powers regarding bonds.

(1) The principal and interest on bonds issued by the authority may be made payable from:
(a) the income and revenues of the projects financed with the proceeds of the bonds;
(b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;
(c) the income, proceeds, revenues, property, and funds the authority derives from or holds in connection with its undertaking and carrying out development of authority jurisdictional land;
(d) property tax differential funds;
(e) authority revenues generally;
(f) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the authority; or

(g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).
(2) In connection with the issuance of authority bonds, the authority may:
(a) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence;
(b) encumber by mortgage, deed of trust, or otherwise all or any part of its real or personal property, then owned or thereafter acquired; and
(c) make the covenants and take the action that may be necessary, convenient, or desirable to secure its bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Amended by Chapter 399, 2019 General Session

11-58-703 Purchase of port authority bonds.
(1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by an authority under this part with funds owned or controlled by the purchaser.
(2) Nothing in this section may be construed to relieve a purchaser of authority bonds of any duty to exercise reasonable care in selecting securities.

Enacted by Chapter 179, 2018 General Session

11-58-704 Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.
(1) A member of the board or other person executing an authority bond is not liable personally on the bond.
(2)
(a) A bond issued by the authority is not a general obligation or liability of the state or any of its political subdivisions and does not constitute a charge against their general credit or taxing powers.
(b) A bond issued by the authority is not payable out of any funds or properties other than those of the authority.
(c) The state and its political subdivisions are not and may not be held liable on a bond issued by the authority.
(d) A bond issued by the authority does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.
(3) A bond issued by the authority under this part is fully negotiable.

Enacted by Chapter 179, 2018 General Session

11-58-705 Obligee rights -- Board may confer other rights.
(1) In addition to all other rights that are conferred on an obligee of a bond issued by the authority under this part and subject to contractual restrictions binding on the obligee, an obligee may:
(a) by mandamus, suit, action, or other proceeding, compel an authority and its board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the authority with or for the benefit of the obligee, and require the authority to carry out the covenants and agreements of the authority and to fulfill all duties imposed on the authority by this part; and

(b) by suit, action, or proceeding in equity, enjoin any acts or things that may be unlawful or violate the rights of the obligee.

(2)

(a) In a board resolution authorizing the issuance of bonds or in a trust indenture, mortgage, lease, or other contract, the board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.

(b)

(i) The rights that the board may confer under Subsection (2)(a) are the rights to:

(A) cause possession of all or part of a development project to be surrendered to an obligee;

(B) obtain the appointment of a receiver of all or part of an authority's development project and of the rents and profits from it; and

(C) require the authority and its board and employees to account as if the authority and the board and employees were the trustees of an express trust.

(ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i)(B), the receiver:

(A) may enter and take possession of the development project or any part of it, operate and maintain it, and collect and receive all fees, rents, revenues, or other charges arising from it after the receiver's appointment; and

(B) shall keep money collected as receiver for the authority in separate accounts and apply it pursuant to the authority obligations as the court directs.

Enacted by Chapter 179, 2018 General Session

11-58-706 Bonds exempt from taxes -- Port authority may purchase its own bonds.

(1) A bond issued by the authority under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from it, exempt from all state taxes except the corporate franchise tax.

(2) The authority may purchase its own bonds at a price that its board determines.

(3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the authority on its rents, fees, grants, properties, or revenues.

Enacted by Chapter 179, 2018 General Session

Part 8
Port Authority Budget, Reporting, and Audits

11-58-801 Annual port authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file annual budget.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 30, except that the authority's initial budget shall be adopted as soon as reasonably practicable after the organization of the board and the beginning of authority operations.
(3) The authority's fiscal year shall be the period from July 1 to the following June 30.
(4)
(a) Before adopting an annual budget, the board shall hold a public hearing on the annual budget.
(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice:
(i) at least once in a newspaper of general circulation within the state, at least one week before the public hearing; and
(ii) on the Utah Public Notice Website created in Section 63A-16-601, at least one week immediately before the public hearing.
(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.
(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:
(a) revenues and expenditures for the budget year;
(b) legal fees; and
(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.
(6)
(a) Within 30 days after adopting an annual budget, the board shall file a copy of the annual budget with the auditor of each county in which the authority jurisdictional land is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax differential.
(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Amended by Chapter 82, 2022 General Session

11-58-802 Amending the port authority annual budget.
(1) The board may by resolution amend an annual authority budget.
(2) An amendment of the annual authority budget that would increase the total expenditures may be made only after public hearing by notice published as required for initial adoption of the annual budget.
(3) The authority may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

Enacted by Chapter 179, 2018 General Session

11-58-803 Port authority report.
(1)
(a) On or before November 1 of each year, the authority shall prepare and file a report with the county auditor of each county in which the authority jurisdictional land is located, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax differential.

(b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.
(2) Each report under Subsection (1) shall contain:
(a) an estimate of the property tax differential to be paid to the authority for the calendar year ending December 31; and
(b) an estimate of the property tax differential to be paid to the authority for the calendar year beginning the next January 1.
(3) Before November 30 of each year, the board shall present a report to the Executive Appropriations Committee of the Legislature, as the Executive Appropriations Committee directs, that includes:
(a) an accounting of how authority funds have been spent, including funds spent on the environmental sustainability component of the authority business plan under Subsection 11-58-202(1)(a);
(b) an update about the progress of the development and implementation of the authority business plan under Subsection 11-58-202(1)(a), including the development and implementation of the environmental sustainability component of the plan; and
(c) an explanation of the authority's progress in achieving the policies and objectives described in Subsection 11-58-203(1).

Amended by Chapter 1, 2018 Special Session 2

11-58-804 Audit requirements.

The authority shall comply with the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Enacted by Chapter 179, 2018 General Session

11-58-805 Audit report.

(1) The authority shall, within 180 days after the end of the authority's fiscal year, file a copy of the audit report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax differential.
(2) Each audit report under Subsection (1) shall include:
(a) the property tax differential collected by the authority;
(b) the outstanding principal amount of bonds issued or other loans incurred to finance the costs associated with the authority's projects; and
(c) the actual amount expended for:
(i) acquisition of property;
(ii) site improvements or site preparation costs;
(iii) installation of public utilities or other public improvements; and
(iv) administrative costs of the authority.

Enacted by Chapter 179, 2018 General Session

11-58-806 Port authority chief financial officer is a public treasurer -- Certain port authority funds are public funds.

(1) The authority's chief financial officer:
(a) is a public treasurer, as defined in Section 51-7-3; and

(b) shall invest the authority funds specified in Subsection (2) as provided in that subsection.
(2) Notwithstanding Subsection 63E-2-110(2)(a), property tax differential funds and appropriations that the authority receives from the state:
(a) are public funds; and
(b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

Amended by Chapter 1, 2018 Special Session 2

Part 9
Port Authority Dissolution

11-58-901 Dissolution of port authority -- Restrictions -- Notice of dissolution -- Disposition of port authority property -- Port authority records -- Dissolution expenses.

(1) The authority may not be dissolved unless the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.
(2) Upon the dissolution of the authority:
(a) the Governor's Office of Economic Opportunity shall publish a notice of dissolution:
(i) for the county in which the dissolved authority is located, as a class A notice under Section 63G-30-102, for at least seven days; and
(ii) as required in Section 45-1-101; and
(b) all title to property owned by the authority vests in the state.
(3) The books, documents, records, papers, and seal of each dissolved authority shall be deposited for safekeeping and reference with the state auditor.
(4) The authority shall pay all expenses of the deactivation and dissolution.

Amended by Chapter 435, 2023 General Session

Chapter 59
Point of the Mountain State Land Authority Act

Part 1
General Provisions

11-59-102 Definitions.

As used in this chapter:
(1) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.
(2) "Board" means the authority's board, created in Section 11-59-301.
(3) "Development":
(a) means the construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including:
(i) the demolition or preservation or repurposing of a building, infrastructure, or other facility;

(ii) surveying, testing, locating existing utilities and other infrastructure, and other preliminary site work; and
(iii) any associated planning, design, engineering, and related activities; and
(b) includes all activities associated with:
(i) marketing and business recruiting activities and efforts;
(ii) leasing, or selling or otherwise disposing of, all or any part of the point of the mountain state land; and
(iii) planning and funding for mass transit infrastructure to service the point of the mountain state land.
(4) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.
(5) "New correctional facility" means the state correctional facility being developed in Salt Lake City to replace the state correctional facility in Draper.
(6) "Point of the mountain state land" means the approximately 700 acres of state-owned land in Draper, including land used for the operation of a state correctional facility until completion of the new correctional facility and state-owned land in the vicinity of the current state correctional facility.
(7) "Public entity" means:
(a) the state, including each department, division, or other agency of the state; or
(b) a county, city, town, metro township, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.
(8) "Publicly owned infrastructure and improvements":
(a) means infrastructure, improvements, facilities, or buildings that:
(i) benefit the public; and
(ii)
(A) are owned by a public entity or a utility; or
(B) are publicly maintained or operated by a public entity; and
(b) includes:
(i) facilities, lines, or systems that provide:
(A) water, chilled water, or steam; or
(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;
(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities; and
(iii) greenspace, parks, trails, recreational amenities, or other similar facilities.
(9) "Taxing entity" means the same as that term is defined in Section 59-2-102.

Amended by Chapter 16, 2023 General Session
Amended by Chapter 263, 2023 General Session

11-59-103 Scope of chapter -- Limit on selling or leasing point of the mountain state land -- Authority control over point of the mountain state land -- Role of Division of Facilities Construction and Management -- Local government zoning not applicable.

(1) This chapter governs the management of the point of the mountain state land, and the process of planning, managing, and implementing the development of the point of the mountain state land.
(2)

(a) No part of the point of the mountain state land may be sold or otherwise disposed of or leased without the approval of the board.
(b) The authority has complete and exclusive control over the management, development, and disposition of the point of the mountain state land.
(3)
(a) The facilities division serves the role of compliance agency under Title 15A, State Construction and Fire Codes Act, with respect to the point of the mountain state land.
(b) The facilities division is the permitting agency responsible for the issuance of a building permit or certificate of occupancy related to construction on the point of the mountain state land, in accordance with applicable building codes and standards.
(4) The zoning authority of a local government under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, or Title 17, Chapter 27a, County Land Use, Development, and Management Act, does not apply to the use of the point of the mountain state land or to any improvements constructed on the point of the mountain state land, including improvements constructed by an entity other than the authority.

Amended by Chapter 263, 2023 General Session

11-59-104 Loan committee -- Approval of infrastructure loans.
(1) As used in this section:
(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.
(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.
(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.
(d) "Point of the mountain fund" means the same as that term is defined in Section 63A-3-401.5.
(e) "Loan committee" means a committee established under Subsection (2).
(2) The authority shall establish a five-member loan committee consisting of:
(a) the individual who is the board member appointed by the governor under Subsection 11-59-302(2)(c)(ii);
(b) the individual who is a board member under Subsection 11-59-302(2)(e) because the individual is the mayor of Draper or a member of the Draper city council;
(c) the executive director of the Department of Transportation, or the executive director's designee;
(d) an individual, appointed by the governor, who:
(i) is not an elected official; and
(ii) has expertise in public finance or infrastructure development; and
(e) an individual, appointed jointly by the president of the Senate and speaker of the House of Representatives, who:
(i) is not an elected official; and
(ii) has expertise in public finance or infrastructure development.
(3)
(a) The loan committee may recommend for board approval an infrastructure loan from the point of the mountain fund to a borrower for an infrastructure project undertaken by the borrower.
(b) An infrastructure loan from the point of the mountain fund may not be made unless:
(i) the infrastructure loan is recommended by the loan committee; and
(ii) the board approves the infrastructure loan.
(4) If the loan committee recommends an infrastructure loan, the loan committee shall recommend the terms of the infrastructure loan in accordance with Section 63A-3-404.

(5) The board may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.
(6) Within 60 days after the execution of an infrastructure loan, the board shall report the infrastructure loan, including the loan amount, terms, interest rate, and security, to:
(a) the Executive Appropriations Committee; and
(b) the State Finance Review Commission created in Section 63C-25-201.
(7)
(a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.
(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:
(i) Sections 63A-3-106 and 63A-3-107; and
(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 207, 2022 General Session
Amended by Chapter 237, 2022 General Session

Part 2
Point of the Mountain State Land Authority

11-59-201 Creation of Point of the Mountain State Land Authority -- Status and duties of authority.

(1) There is created the Point of the Mountain State Land Authority.
(2) The authority is:
(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession, whose purpose is to facilitate the development of state land;
(b) a political subdivision of the state; and
(c) a public corporation, as defined in Section 63E-1-102.
(3) Subject to Subsection 11-59-103(3), the authority shall manage the point of the mountain state land and shall plan, manage, and implement the development of the point of the mountain state land:
(a) beginning May 8, 2018;
(b) during the transition period as prison operations on the point of the mountain state land continue and eventually wind down in anticipation of the relocation of prison operations to the new correctional facility; and
(c) upon and after the transfer of prison operations to the new correctional facility.

Enacted by Chapter 388, 2018 General Session

11-59-202 Authority powers.

(1) The authority may:

(a) as provided in this chapter, plan, manage, and implement the development of the point of the mountain state land, including the ongoing operation of facilities on the point of the mountain state land;
(b) undertake, or engage a consultant to undertake, any study, effort, or activity the board considers appropriate to assist or inform the board about any aspect of the proposed development of the point of the mountain state land, including the best development model and financial projections relevant to the authority's efforts to fulfill its duties and responsibilities under this section and Section 11-59-203;
(c) sue and be sued;
(d) enter into contracts generally, including a contract for the sharing of records under Section 63G-2-206;
(e) buy, obtain an option upon, or otherwise acquire any interest in real or personal property, as necessary to accomplish the duties and responsibilities of the authority, including an interest in real property, apart from point of the mountain state land, or personal property, outside point of the mountain state land, for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;
(f) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;
(g) enter into a lease agreement on real or personal property, either as lessee or lessor;
(h) provide for the development of the point of the mountain state land under one or more contracts, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to the point of the mountain state land;
(i) exercise powers and perform functions under a contract, as authorized in the contract;
(j) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;
(k) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;
(l) subject to Subsection (2), issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;
(m) hire employees, including contract employees, in addition to or in place of staff provided under Section 11-59-304;
(n) transact other business and exercise all other powers provided for in this chapter;
(o) enter into a development agreement with a developer of some or all of the point of the mountain state land;
(p) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;
(q) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;
(r) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more local government entities for the delivery of services to the point of the mountain state land;

(s) enter into an agreement with the federal government or an agency of the federal government, as the board considers necessary or advisable, to enable or assist the authority to exercise its powers or fulfill its duties and responsibilities under this chapter;
(t) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the point of the mountain state land; and
(u) impose impact fees under Title 11, Chapter 36a, Impact Fees Act, and other fees related to development activities.
(2) The authority may not issue bonds under this part unless the board first:
(a) adopts a parameters resolution for the bonds that sets forth:
(i) the maximum:
(A) amount of bonds;
(B) term; and
(C) interest rate; and
(ii) the expected security for the bonds; and
(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.
(3) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:
(a) the Executive Appropriations Committee; and
(b) the State Finance Review Commission created in Section 63C-25-201.

Amended by Chapter 139, 2023 General Session

11-59-203 Authority duties and responsibilities.
(1) As the authority plans, manages, and implements the development of the point of the mountain state land, the authority shall pursue development strategies and objectives designed to:
(a) maximize the creation of high-quality jobs and encourage and facilitate a highly trained workforce;
(b) ensure strategic residential and commercial growth;
(c) promote a high quality of life for residents on and surrounding the point of the mountain state land, including strategic planning to facilitate:
(i) jobs close to where people live;
(ii) vibrant urban centers;
(iii) housing types that incorporate affordability factors and match workforce needs;
(iv) parks, connected trails, and open space, including the preservation of natural lands to the extent practicable and consistent with the overall development plan; and
(v) preserving and enhancing recreational opportunities;
(d) complement the development on land in the vicinity of the point of the mountain state land;
(e) improve air quality and minimize resource use; and
(f) accommodate and incorporate the planning, funding, and development of an enhanced and expanded future transit and transportation infrastructure and other investments, including:
(i) the acquisition of rights-of-way and property necessary to ensure transit access to the point of the mountain state land; and
(ii) a world class mass transit infrastructure, to service the point of the mountain state land and to enhance mobility and protect the environment.
(2) In planning the development of the point of the mountain state land, the authority shall:
(a) consult with applicable governmental planning agencies, including:

(i) relevant metropolitan planning organizations;
(ii) Draper City and Salt Lake County planning and governing bodies; and
(iii) in regards to the factors described in Subsections (1)(c)(i) and (iii), the Unified Economic Opportunity Commission created in Section 63N-1a-201;
(b) research and explore the feasibility of attracting a nationally recognized research center; and
(c) research and explore the appropriateness of including labor training centers and a higher education presence on the point of the mountain state land.

Amended by Chapter 406, 2022 General Session

11-59-204 Applicability of other law -- Coordination with municipality.

(1) The authority and the point of the mountain state land are not subject to:
(a)Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or
(b) the jurisdiction of a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, except to the extent that:
(i) some or all of the point of the mountain state land is, on May 8, 2018, included within the boundary of a special district or special service district; and
(ii) the authority elects to receive service from the special district or special service district for the point of the mountain state land that is included within the boundary of the special district or special service district, respectively.
(2) In formulating and implementing a development plan for the point of the mountain state land, the authority shall consult with officials of the municipality within which the point of the mountain state land is located on planning and zoning matters.
(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.
(4) Nothing in this chapter may be construed to remove the point of the mountain state land from the service area of the municipality in which the point of the mountain state land is located, for purposes of water, sewer, and other similar municipal services currently being provided.
(5) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act, except that for an electronic meeting of the authority board that otherwise complies with Section 52-4-207, the authority board:
(a) is not required to establish an anchor location; and
(b) may convene and conduct the meeting without the determination otherwise required under Subsection 52-4-207(5)(a)(i).

Amended by Chapter 16, 2023 General Session
Amended by Chapter 100, 2023 General Session

11-59-205 Authority funds.

(1) Authority funds consist of all money that the authority receives from any source, including:
(a) money appropriated by the Legislature;
(b) money from lease revenue;
(c) revenue from fees or other charges imposed by the authority; and
(d) other money paid to or acquired by the authority, as provided in this chapter or other applicable law.

(2) The authority may use authority funds to carry out any of the powers of the authority under this chapter or for any purpose authorized under this chapter, including:
  (a) providing long-term benefits to the state from the development or use of point of the mountain state land;
  (b) investment in authority projects;
  (c) repayment of point of the mountain infrastructure loans;
  (d) repayment of or collateral for authority bonds;
  (e) the sharing of money with other governmental entities under an interlocal agreement; and
  (f) paying any consulting fees, staff salaries, and other administrative, overhead, legal, and operating expenses of the authority.

Amended by Chapter 263, 2023 General Session

11-59-206 Energy sales and use tax.

(1) As provided in Subsection 10-1-304(1)(c), the authority may by resolution levy an energy sales and use tax, under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, on an energy supplier, as defined in Section 10-1-303, that supplies energy to a facility on the point of the mountain state land.
(2) An energy sales and use tax under this section is subject to the maximum rate under Subsection 10-1-304(1)(a)(ii), except that delivered value does not include the amount of a tax paid under this section.
(3)
  (a) An energy supplier may recover from the energy supplier's customers an amount equal to the energy sales and use tax, if the energy supplier includes the amount as a separate billing line item.
  (b) An energy sales and use tax levied under this section is in addition to the rate approved by the Public Service Commission and charged to the customer.
(4)
  (a) An energy sales and use tax under this section is payable by the energy supplier to the authority on a monthly basis as described by the resolution levying the tax.
  (b) A resolution levying an energy sales and use tax shall allow the energy supplier to retain 1% of the tax remittance each month to offset the energy supplier's costs of collecting and remitting the tax.
(5) Beginning July 1, 2022, a municipality may not levy an energy sales and use tax on an energy supplier for energy that the energy supplier supplies to a facility located on the point of the mountain state land.

Enacted by Chapter 237, 2022 General Session

11-59-207 Annual fee in lieu of property tax.

(1) As used in this section:
  (a) "Annual fee" means a fee:
    (i) that is levied and collected each year, as provided in this section; and
    (ii) in an amount that is the equivalent of the cumulative real property tax that would be levied and collected on leased property by all taxing entities if the leased property were not exempt property.
  (b) "Exempt property" means real property that is exempt from ad valorem property tax because the real property is owned by the state.

(c) "Lease agreement" means an agreement by which a private person leases from the state real property that is part of the point of the mountain state land.
(d)
(i) "Leased property" means real property that:
(A) is part of the point of the mountain state land;
(B) is leased by a private person; and
(C) would be subject to ad valorem property tax if the real property were owned by the private person.
(ii) "Leased property" includes attachments and other improvements to the real property that would be included in an assessment of the value of the real property if the real property were not exempt property.
(e) "Leased property value" means the value that leased property would have if the leased property were subject to ad valorem property tax.
(f) "Lessee" means a private person that leases property that is part of the point of the mountain state land under a lease agreement.
(2) Beginning January 1 of the year immediately following the execution of a lease agreement, a lessee under the lease agreement shall pay an annual fee with respect to the leased property that is the subject of the lease agreement.
(3) In a county in which the point of the mountain state land is located:
(a) the county assessor shall determine the leased property value of leased property that is subject to an annual fee as though the leased property were subject to ad valorem property tax;
(b) the county treasurer shall collect an annual fee in the same way and at the same time that the treasurer would collect ad valorem property tax on the leased property if the leased property were subject to ad valorem property tax;
(c) the county may retain an administrative fee for collecting and distributing the annual fee in the same amount that would apply if the leased property were not exempt property; and
(d) the county treasurer shall distribute to the authority all revenue from an annual fee on leased property in the same way and at the same time as the treasurer distributes ad valorem property tax revenue to taxing entities in accordance with Section 59-2-1365.
(4) Leased property is not subject to a privilege tax under Title 59, Chapter 4, Privilege Tax.

Enacted by Chapter 237, 2022 General Session

11-59-208 Portion of property tax augmentation to be paid to authority.
(1) As used in this section:
(a) "Base taxable value" means the taxable value in the year before the transfer date.
(b) "Property tax augmentation":
(i) means the amount of property tax that is the difference between:
(A) the amount of property tax revenues generated each tax year by all taxing entities from a transferred parcel, using the current assessed value of the property; and
(B) the amount of property tax revenues that would be generated from that same transferred parcel using the base taxable value of the property; and
(ii) does not include property tax revenue from:
(A) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;
(B) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(C) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

(c) "Transfer date" means the date that fee title to land that is part of the point of the mountain state land is transferred to a private person.

(d) "Transferred parcel" means a parcel of land:

(i) that is part of the point of the mountain state land; and

(ii) the fee title to which has been transferred to a private person.

(2) Beginning January 1, 2023, the authority shall be paid 75% of property tax augmentation from a transferred parcel:

(a) for a period of 25 years beginning January 1 of the year immediately following the transfer date for the transferred parcel; and

(b) for a period of an additional 15 years beyond the period stated in Subsection (2)(a) if:

(i) the board determines by resolution that the additional years will produce a significant benefit to the authority; and

(ii) the resolution is adopted before the end of the 25-year period under Subsection (2)(a).

(3) A county that collects property tax on property within the county in which the point of the mountain state land is located shall pay and distribute to the authority the amount of property tax augmentation that the authority is entitled to collect under Subsection (2), in the manner and at the time provided in Section 59-2-1365.

Enacted by Chapter 237, 2022 General Session

Part 3
Authority Board

11-59-301 Authority board -- Delegation of power.

(1) The authority shall be governed by a board, which shall manage and conduct the business and affairs of the authority and shall determine all questions of authority policy.

(2) All powers of the authority are exercised through the board.

(3) The board may by resolution:

(a) delegate powers to authority staff; and

(b) designate an authority officer or employee to execute on behalf of the authority a document by which the authority acts to lease, transfer, or otherwise dispose of land that is part of the point of the mountain state land.

Amended by Chapter 263, 2023 General Session

11-59-302 Number of board members -- Appointment -- Vacancies -- Chairs.

(1) The board shall consist of 12 members as provided in Subsection (2).

(2)

(a) The president of the Senate shall appoint two members of the Senate to serve as members of the board.

(b) The speaker of the House of Representatives shall appoint two members of the House of Representatives to serve as members of the board.

(c) The governor shall appoint five individuals to serve as members of the board:

(i) one of whom shall be a member of the board of or employed by the Governor's Office of Economic Opportunity, created in Section 63N-1a-301;
(ii) one of whom shall be an employee of the facilities division; and
(iii) one of whom shall be an elected official from a municipality in close proximity to the municipality in which the point of the mountain state land is located.
(d) The Salt Lake County mayor shall appoint one board member, who shall be an elected Salt Lake County government official.
(e) The mayor of Draper, or a member of the Draper city council that the mayor designates, shall serve as a board member.
(f) The commissioner of higher education, appointed under Section 53B-1-408, or the commissioner's designee, shall serve as a board member.
(3)
(a)
(i) Subject to Subsection (3)(a)(ii), a vacancy on the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.
(ii) If the mayor of Draper or commissioner of higher education is removed as a board member under Subsection (5), the mayor of Draper or commissioner of higher education, as the case may be, shall designate an individual to serve as a member of the board, as provided in Subsection (2)(e) or (f), respectively.
(b) Each person appointed or designated to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.
(4) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.
(5) A member of the board may be removed by a vote of two-thirds of all members of the board.
(6)
(a) The governor shall appoint one board member to serve as cochair of the board.
(b) The president of the Senate and speaker of the House of Representatives shall jointly appoint one legislative member of the board to serve as cochair of the board.

Amended by Chapter 263, 2023 General Session

11-59-303 Term of board members -- Quorum requirements -- Compensation.
(1) The term of each board member appointed under Subsection 11-59-302(2)(a), (b), (c), or (d) is four years, except that the initial term of half of the members appointed under Subsections 11-59-302(2)(a), (b), and (c) is two years.
(2) Each board member shall serve until a successor is duly appointed and qualified.
(3) A majority of board members constitutes a quorum, and, except as provided in Subsection 11-59-302(5), the action of a majority of a quorum constitutes the action of the board.
(4)
(a) A board member who is not a legislator may not receive compensation or benefits for the member's service on the board, but may receive per diem and expense reimbursement for travel expenses incurred as a board member as allowed in:
(i) Sections 63A-3-106 and 63A-3-107; and
(ii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Enacted by Chapter 388, 2018 General Session

11-59-304 Staff and other support services -- Cooperation from state and local government entities -- Services from state agencies.

(1) As used in this section, "office" means the Governor's Office of Economic Opportunity, created in Section 63N-1a-301.
(2) If and as requested by the board:
  (a) the facilities division shall:
    (i) provide staff support to the board; and
    (ii) make available to the board existing division resources and expertise to assist the board in the development, marketing, and disposition of the point of the mountain state land; and
  (b) the office shall cooperate with and provide assistance to the board in the board's:
    (i) formulation of a development plan for the point of the mountain state land; and
    (ii) management and implementation of a development plan, including the marketing of property and recruitment of businesses and others to locate on the point of the mountain state land.
(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority and the board to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.
(4)
  (a) The authority may request and, upon request, shall receive services that include:
    (i) fuel dispensing and motor pool services provided by the Division of Fleet Operations;
    (ii) surplus property services provided by the Division of Purchasing and General Service;
    (iii) information technology services provided by the Division of Technology Services;
    (iv) archive services provided by the Division of Archives and Records Service;
    (v) financial services provided by the Division of Finance;
    (vi) human resource management services provided by the Division of Human Resource Management;
    (vii) legal services provided by the Office of the Attorney General; and
    (viii) banking services provided by the Office of the State Treasurer.
  (b) Nothing in Subsection (4)(a) may be construed to relieve the authority of the obligation to pay the applicable fee for the service provided.

Amended by Chapter 263, 2023 General Session

11-59-305 Considering recommendations of the Point of the Mountain Development Commission -- Board recommendations on financing.

(1) In fulfilling its responsibilities under this chapter and in accomplishing the purposes of the authority under this chapter, the board shall:
  (a) consider the recommendations of the Point of the Mountain Development Commission, created in Section 63C-17-103; and
  (b) to the extent the board determines practicable, plan, manage, and implement the development of the point of the mountain state land consistent with those recommendations.
(2) Before November 30, 2018, the board shall make recommendations to the Legislative Management Committee of the Legislature concerning potential revenue sources for the development of the point of the mountain state land.

Enacted by Chapter 388, 2018 General Session

11-59-306 Limitations on board members.

(1) As used in this section:

(a) "Designated individual" means an individual:

(i)

(A) who is a member of the Senate or House of Representatives;

(B) who has been appointed as a member of the board under Subsection 11-59-302(2)(a) or (b); and

(C) whose legislative district includes some or all of the point of the mountain state land; or

(ii) who is designated to serve as a board member under Subsection 11-59-302(2)(e) or (f).

(b) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly as a result of the development of the point of the mountain state land, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally as a result of the development of the point of the mountain state land.

(c) "Family member" means a parent, spouse, sibling, child, or grandchild.

(d) "Interest in real property" means every type of real property interest, whether recorded or unrecorded, including:

(i) a legal or equitable interest;

(ii) an option on real property;

(iii) an interest under a contract;

(iv) fee simple ownership;

(v) ownership as a tenant in common or in joint tenancy or another joint ownership arrangement;

(vi) ownership through a partnership, limited liability company, or corporation that holds title to a real property interest in the name of the partnership, limited liability company, or corporation;

(vii) leasehold interest; and

(viii) any other real property interest that is capable of being owned.

(2) An individual may not serve as a member of the board if:

(a) subject to Subsection (5) for a designated individual, the individual owns an interest in real property, other than a personal residence in which the individual resides, on or within five miles of the point of the mountain state land;

(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located on or within one-half mile of the point of the mountain state land;

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a firm, company, or other entity that the individual reasonably believes is likely to participate in or receive compensation or other direct financial benefit from the development of the point of the mountain state land; or

(d) the individual or a family member of the individual receives or is expected to receive a direct financial benefit.

(3)

(a) Before taking office as a board member, an individual shall submit to the authority a statement:

(i) verifying that the individual's service as a board member does not violate Subsection (2); and

(ii) for a designated individual, identifying any interest in real property, other than a personal residence in which the individual resides, located on or within five miles of the point of the mountain state land.

(b) If a designated individual takes action, during the individual's service as a board member, to initiate, negotiate, or otherwise arrange for the acquisition of an interest in real property, other than a personal residence in which the individual intends to live, located on or within five miles of the point of the mountain state land, the designated individual shall submit a written statement to the board chair describing the action, the interest in real property that the designated individual intends to acquire, and the location of the real property.

(4) Except for a board member who is a designated individual, a board member is disqualified from further service as a board member if the board member, at any time during the board member's service on the board, takes any action to initiate, negotiate, or otherwise arrange for the acquisition of an interest in real property, other than a personal residence in which the member intends to reside, located on or within five miles of the point of the mountain state land.

(5) A designated individual who submits a written statement under Subsection (3)(a)(ii) or (b) may not serve or continue to serve as a board member unless at least two-thirds of all other board members conclude that the designated individual's service as a board member does not and will not create a material conflict of interest impairing the ability of the designated individual to exercise fair and impartial judgment as a board member and to act in the best interests of the authority.

(6)

(a) The board may not allow a firm, company, or other entity to participate in planning, managing, or implementing the development of the point of the mountain state land if a board member or a family member of a board member owns an interest in, is directly affiliated with, or is an employee or officer of the firm, company, or other entity.

(b) Before allowing a firm, company, or other entity to participate in planning, managing, or implementing the development of the point of the mountain state land, the board may require the firm, company, or other entity to certify that no board member or family member of a board member owns an interest in, is directly affiliated with, or is an employee or officer of the firm, company, or other entity.

Amended by Chapter 237, 2022 General Session

Part 4
Authority Budget and Reporting Requirements

11-59-401 Annual authority budget -- Fiscal year -- Public hearing and notice required -- Auditor forms.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 22.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4)

(a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice:
(i) at least once in a newspaper of general circulation within the state, one week before the public hearing; and
(ii) on the Utah Public Notice Website created in Section 63A-16-601, for at least one week immediately before the public hearing.
(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.
(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:
(a) revenues and expenditures for the budget year;
(b) legal fees; and
(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

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

11-59-402 Amending the authority annual budget.
(1) The authority board may by resolution amend an annual authority budget.
(2) An amendment of the annual authority budget that would increase the total expenditures may be made only after public hearing by notice published as required for initial adoption of the annual budget.
(3) The authority may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

Enacted by Chapter 388, 2018 General Session

11-59-403 Audit requirements.
The authority shall comply with the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Enacted by Chapter 388, 2018 General Session

11-59-404 Authority chief financial officer is a public treasurer -- Certain authority funds are public funds.
(1) The authority's chief financial officer:
(a) is a public treasurer, as defined in Section 51-7-3; and
(b) shall invest the authority funds specified in Subsection (2) as provided in that subsection.
(2) Notwithstanding Subsection 63E-2-110(2)(a), appropriations that the authority receives from the state:
(a) are public funds; and
(b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

Enacted by Chapter 388, 2018 General Session

Part 5
Authority Dissolution

11-59-501 Dissolution of authority -- Restrictions -- Publishing notice of dissolution -- Authority records -- Dissolution expenses.

(1) The authority may not be dissolved unless:
 (a) the authority board first receives approval from the Legislative Management Committee of the Legislature to dissolve the authority; and
 (b) the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.
(2) To dissolve the authority, the board shall:
 (a) obtain the approval of the Legislative Management Committee of the Legislature; and
 (b) adopt a resolution dissolving the authority, to become effective as provided in the resolution.
(3) Upon the dissolution of the authority:
 (a) the Governor's Office of Economic Opportunity shall publish a notice of dissolution:
  (i) for the county in which the dissolved authority is located, as a class A notice under Section 63G-30-102, for at least seven days; and
  (ii) as required in Section 45-1-101; and
 (b) all title to property owned by the authority vests in the facilities division for the benefit of the state.
(4) The board shall deposit all books, documents, records, papers, and seal of the dissolved authority with the state auditor for safekeeping and reference.
(5) The authority shall pay all expenses of the deactivation and dissolution.

Amended by Chapter 263, 2023 General Session
Amended by Chapter 435, 2023 General Session

Chapter 60
Political Subdivision Lien Authority

11-60-101 Title.

This chapter is known as "Political Subdivision Lien Authority."

Enacted by Chapter 197, 2018 General Session

11-60-102 Definitions.

As used in this chapter:
(1) "Direct charge" means a charge, fee, assessment, or amount, other than a property tax, that a political subdivision charges to a property owner.
(2) "Nonrecurring tax notice charge" means a tax notice charge that a political subdivision certifies to the county treasurer on a one-time or case-by-case basis rather than regularly over multiple calendar years.
(3) "Notice of lien" means a notice that:

(a) a political subdivision records in the office of the recorder of the county in which a property that is the subject of a nonrecurring tax notice charge is located; and
(b) describes the nature and amount of the nonrecurring tax notice charge and whether the political subdivision intends to certify the charge to the county treasurer under statutory authority that allows the treasurer to place the charge on the property tax notice described in Section 59-2-1317.
(4) "Political subdivision" means:
(a) a county, as that term is defined in Section 17-50-101;
(b) a municipality, as that term is defined in Section 10-1-104;
(c) a special district, as that term is defined in Section 17B-1-102;
(d) a special service district, as that term is defined in Section 17D-1-102;
(e) an interlocal entity, as that term is defined in Section 11-13-103;
(f) a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;
(g) a local building authority, as that term is defined in Section 17D-2-102;
(h) a conservation district, as that term is defined in Section 17D-3-102; or
(i) a local entity, as that term is defined in Sections 11-42-102 and 11-42a-102.
(5) "Political subdivision lien" means a lien that a statute expressly authorizes a political subdivision to hold and record, including a direct charge that constitutes, according to an express statutory provision, a lien.
(6) "Property tax" means a tax imposed on real property under Title 59, Chapter 2, Property Tax Act, Title 59, Chapter 3, Tax Equivalent Property Act, or Title 59, Chapter 4, Privilege Tax.
(7) "Tax notice charge" means the same as that term is defined in Section 59-2-1301.5.
(8) "Tax sale" means the tax sale described in Title 59, Chapter 2, Part 13, Collection of Taxes.

Amended by Chapter 16, 2023 General Session

11-60-103 Political subdivision liens -- Status -- Limitations.
(1) Unless expressly granted in statute, a political subdivision has no lien authority or lien rights when a property owner fails to pay a direct charge for:
(a) a service that the political subdivision renders; or
(b) a product, an item, or goods that the political subdivision delivers.
(2) A political subdivision lien other than a lien described in Subsection (3):
(a)
(i) is not equivalent to and does not have the same priority as property tax; and
(ii) is not subject to the same collection and tax sale procedures as a property tax;
(b) is effective as of the date on which the lienholder records the lien in the office of the recorder of the county in which the property is located;
(c) is subordinate in priority to all encumbrances on the property existing on the date on which the lienholder records the lien; and
(d) is invalid and does not attach to the property if:
(i) the lienholder does not record the lien; or
(ii) a subsequent bona fide purchaser purchases the liened property for value before the lienholder records the lien.
(3)
(a) A political subdivision lien that is included on the property tax notice in accordance with Section 59-2-1317 or another express statutory provision:

(i) under Subsection 59-2-1317(3), has the same priority as a property tax and is subject to collection in a tax sale in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes, if:

(A) in order to hold the lien, statute requires the lienholder to record the lien or a resolution, notice, ordinance, or order, and the lienholder makes the required recording; or

(B) statute does not require the lienholder to record the lien or a resolution, notice, ordinance, or order; and

(ii) except as provided in Subsection (3)(b):

(A) attaches to the property; and

(B) is valid against a subsequent bona fide purchaser of the property.

(b) Notwithstanding Subsection (3)(a)(ii), a nonrecurring tax notice charge does not attach to the property and is invalid against a subsequent bona fide purchaser if the recording of a document conveying title to the subsequent bona fide purchaser occurs before the earlier of:

(i) the recording of the lien or a notice of lien in the office of the recorder of the county in which the liened property is located; or

(ii) the mailing of the property tax notice that includes the nonrecurring tax notice charge.

(4) If the holder of a political subdivision lien records the lien or a notice of lien, upon payment of the amount that constitutes the lien:

(a) the lien is released from the property; and

(b) the lienholder shall record a release of the lien or the notice of lien in the same recorder's office in which the lienholder recorded the lien or the notice of the lien.

(5) Unless otherwise expressly stated in statute, a partial payment of an amount constituting a political subdivision lien, including all costs, charges, interest, and amounts accrued since the unpaid amount was certified to the county treasurer, is not a release of any assessment to be paid in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

(6) Nothing in this section limits a political subdivision's lien authority, lien rights, or remedies otherwise provided in statute, a contract, a judgment, or another property interest.

Amended by Chapter 30, 2019 General Session

Chapter 61
Expressive Activity Regulation by Local Government Act

11-61-101 Title.

This chapter is known as the "Expressive Activity Regulation by Local Government Act."

Enacted by Chapter 188, 2018 General Session

11-61-102 Definitions.

As used in this chapter:

(1) "Expressive activity" means:

(a) peacefully assembling, protesting, or speaking;

(b) distributing literature;

(c) carrying a sign; or

(d) signature gathering or circulating a petition.

(2) "Generally applicable time, place, and manner restriction" means a content-neutral ordinance, policy, practice, or other action that:
(a) by its clear language and intent, restricts or infringes on expressive activity;
(b) applies generally to any person; and
(c) is not an individually applicable time, place, and manner restriction.
(3)
(a) "Individually applicable time, place, and manner restriction" means a content-neutral policy, practice, or other action:
(i) that restricts or infringes on expressive activity; and
(ii) that a political subdivision applies:
(A) on a case-by-case basis;
(B) to a specifically identified person or group of persons; and
(C) regarding a specifically identified place and time.
(b) "Individually applicable time, place, and manner restriction" includes a restriction placed on expressive activity as a condition to obtain a permit.
(4)
(a) "Political subdivision" means a county, city, town, or metro township.
(b) "Political subdivision" does not mean:
(i) a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts;
(ii) a special service district under Title 17D, Chapter 1, Special Service District Act; or
(iii) a school district under Title 53G, Chapter 3, School District Creation and Change.
(5)
(a) "Public building" means a building or permanent structure that is:
(i) owned, leased, or occupied by a political subdivision or a subunit of a political subdivision;
(ii) open to public access in whole or in part; and
(iii) used for public education or political subdivision activities.
(b) "Public building" does not mean:
(i) a building owned or leased by a political subdivision or a subunit of a political subdivision:
(A) that is closed to public access;
(B) where state or federal law restricts expressive activity; or
(C) when the building is used by a person, in whole or in part, for a private function; or
(ii) a public school.
(6)
(a) "Public grounds" means the area outside a public building that is a traditional public forum where members of the public may safely gather to engage in expressive activity.
(b) "Public grounds" includes sidewalks, streets, and parks.
(c) "Public grounds" does not include the interior of a public building.

Amended by Chapter 16, 2023 General Session

11-61-103 Exceptions.

This chapter does not apply to:
(1) a restriction on expressive activity on public grounds that a political subdivision imposes in order to comply with Title 20A, Election Code;
(2) property that a political subdivision owns or leases:
(a) that is closed to public access; or
(b) where state or federal law restricts expressive activity; or

(3) a limited or nonpublic forum.

Enacted by Chapter 188, 2018 General Session

11-61-104 Time, place, and manner restrictions -- Generally applicable restrictions by ordinance.

(1) If a political subdivision imposes a generally applicable or individually applicable time, place, and manner restriction on expressive activity on public grounds, the political subdivision shall ensure that the restriction:
  (a) is narrowly tailored to serve an important governmental interest, including public access to the public building, public safety, and protection of public property;
  (b) is unrelated to the suppression of a particular message or the content of the expressive activity that the restriction addresses; and
  (c) leaves open reasonable alternative means for the expressive activity.

(2) A political subdivision may not impose a generally applicable time, place, and manner restriction on expressive activity on public grounds unless the political subdivision:
  (a) imposes the restriction by ordinance; or
  (b)
    (i) adopts an ordinance to guide the adoption, by policy or practice, of restrictions on expressive activity on public grounds; and
    (ii) adopts, by policy or practice, the restriction in accordance with the ordinance described in Subsection (2)(b)(i) and with the constitutional safeguards described in Subsection (1).

Enacted by Chapter 188, 2018 General Session

11-61-105 Political activity outside a public building.

(1) Except as provided in Section 11-61-103 and Subsection (2), a political subdivision may not prohibit a political activity, including signature gathering or petition circulation, on public grounds.

(2) A political subdivision may impose a time, place, and manner restriction on political activities outside a public building in accordance with Section 11-61-104.

Enacted by Chapter 188, 2018 General Session

Chapter 62
Imposition of Fines by a County, City, or Town

Part 1
General Provisions

11-62-101 Title.

This chapter is known as the "Imposition of Fines by a County, City, or Town."

Enacted by Chapter 234, 2018 General Session

11-62-102 Definition.

As used in this chapter, "parking citation, civil citation, or administrative fine" means a citation or other action by a county, city, or town that under a law other than this chapter authorizes the county, city, or town to impose a fine against an individual.

Enacted by Chapter 234, 2018 General Session

Part 2
Limitations on Fines

11-62-201 Limits on penalties for failure to pay a fine.

An individual assessed a parking citation, civil citation, or administrative fine may not be charged:

(1) by the original jurisdiction that imposes the fine, late fees and interest in the aggregate that are more than 25% of the initial fine amount; and

(2) by a court, interest in the aggregate that is more than 25% of the initial fine amount.

Enacted by Chapter 234, 2018 General Session

Chapter 63
Trampoline Park Safety

Part 1
General Provisions

11-63-101 Title.

This chapter shall be known as "Trampoline Park Safety."

Enacted by Chapter 50, 2019 General Session

11-63-102 Definitions.

As used in this chapter:

(1) "Commercial trampoline" means a device that:
  (a) incorporates a trampoline bed; and
  (b) is used for recreational jumping, springing, bouncing, acrobatics, or gymnastics in a trampoline park.

(2) "Emergency response plan" means a written plan of action for the reasonable and appropriate contact, deployment, and coordination of services, agencies, and personnel to provide the earliest possible response to an injury or emergency.

(3) "Inherent risk" means a danger or condition that is an integral part of an activity occurring at a trampoline park.

(4) "Inspection" means a procedure that an inspector conducts to:
  (a) determine whether a trampoline park facility, including any device or material, is constructed, assembled, maintained, tested, and operated in accordance with this chapter and the manufacturer's recommendations;

(b) determine the operational safety of a trampoline park facility, including any device or material; and
(c) determine whether the trampoline park's policies and procedures comply with this chapter.
(5) "Inspector" means an individual who:
(a) conducts an inspection of a trampoline park to certify compliance with this chapter and industry safety standards; and
(b)
(i) is certified by:
(A) an organization that develops and publishes consensus standards for a wide range of materials, products, systems, and services that are used for trampolines; or
(B) an organization that promotes trampoline park safety and adopts the standards described in Subsection (5)(b)(i)(A);
(ii) represents the insurer of the trampoline park;
(iii) represents or is certified by a department or agency, regardless of whether the agency is located within the state, that:
(A) inspects amusement and recreational facilities and equipment; and
(B) certifies and trains professional private industry inspectors through written testing and continuing education requirements; or
(iv) represents an organization that the United States Olympic Committee designates as the national governing body for gymnastics.
(6) "Local regulating authority" means the business licensing division of:
(a) the city, town, or metro township in which the trampoline park is located; or
(b) if the trampoline park is located in an unincorporated area, the county.
(7) "Operator" means a person who owns, manages, or controls or who has the duty to manage or control the operation of a trampoline park.
(8) "Participant" means an individual that uses trampoline park equipment.
(9) "Trampoline bed" means the flexible surface of a trampoline on which a user jumps or bounces.
(10) "Trampoline court" means an area of a trampoline park comprising:
(a) multiple commercial trampolines; or
(b) at least one commercial trampoline and at least one associated foam or inflatable bag pit.
(11) "Trampoline park" means a place of business that offers the recreational use of a trampoline court for a fee.

Enacted by Chapter 50, 2019 General Session

11-63-103 Exemptions.

This chapter does not apply to:
(1) a playground that a school or local government operates, if:
(a) the playground is an incidental amenity; and
(b) the operating entity does not primarily derive revenue from operating the playground for a fee;
(2) a gymnastics, dance, cheer, or tumbling facility where:
(a) the majority of activities are based in training or rehearsal and not recreation;
(b) the facility derives at least 80% of revenues through supervised instruction or classes; and
(c) the student-coach or student-instructor ratio is based on age, skill level, and number of students; or
(3) equipment used exclusively for exercise, an inflatable ride, or an inflatable bounce house.

Enacted by Chapter 50, 2019 General Session

Part 2
License Required

11-63-201 Municipal or county business license required.

To operate a trampoline park the operator of a trampoline park shall obtain and maintain, conditioned upon compliance with this chapter:

(1) if the trampoline park is located within an incorporated municipality, a municipal business license authorized under Section 10-1-203; or

(2) if located within the unincorporated area of a county, a county business license authorized under Section 17-53-216.

Enacted by Chapter 50, 2019 General Session

11-63-202 Violation -- License suspension or revocation.

(1) Except as provided in this section, a violation of this chapter is grounds for the local regulating authority to suspend or revoke the operator's business license.

(2) A local regulating authority may not suspend or revoke a license under Subsection (1) unless:

(a) the local regulating authority provides the operator with at least 60 days to cure the violation that is the grounds for the action in accordance with the policy described in Subsection (3); or

(b) regardless of the operator curing a violation as described in Subsection (2)(a), the violation repeats.

(3) A local regulating authority that licenses a trampoline park operator shall define the reasonable opportunity to cure violations described in Subsection (2)(a) by creating a generally applicable policy that identifies a standard timeline and process for curing a violation.

Enacted by Chapter 50, 2019 General Session

Part 3
Safety Standards

11-63-301 Compliance with industry standards.

A trampoline park operator shall:

(1) ensure that the trampoline park complies with industry standards regarding:

(a) signage and notification for proper use of the trampoline park, safety procedures, and education of risk;

(b) equipment and facilities, including materials, layout, condition, and maintenance;

(c) staff training, including safety procedures and emergency response;

(d) participant activities and behaviors that should be restricted;

(e) separation of participants within the trampoline park based on age, size, or other necessary factors;

(f) operational issues, including maintenance and injury logs and emergency response plans;

(g) staff supervision and monitoring of activities; and

(h) statistical tracking of injuries in a manner that does not personally identify the injured participant; and

(2) notify the licensing staff of the local regulating authority within 48 hours of any changes in status to any requirement under this section.

Enacted by Chapter 50, 2019 General Session

11-63-302 Notification and education of risk -- Signs.

An operator shall prominently display throughout the trampoline park contrasted safety, warning, advisory, and instructional signage reflecting the trampoline park's rules.

Enacted by Chapter 50, 2019 General Session

11-63-303 Trampoline park employee training and equipment.

An operator shall ensure that, during all hours of operation:

(1) at least one trampoline park employee is working onsite who is certified in first aid and CPR; and

(2) the trampoline park has an operable automated external defibrillator.

Enacted by Chapter 50, 2019 General Session

11-63-304 Trampoline court supervision.

An operator shall:

(1) require that trampoline park employees monitor the trampoline court and participants during all hours of operation; and

(2) ensure that the number of trampoline park employees described in Subsection (1) is adequate to view each area of the trampoline court.

Enacted by Chapter 50, 2019 General Session

11-63-305 Reporting of injuries -- Emergency response plan.

(1) An operator shall develop, implement, and follow an in-house injury reporting system and emergency response plan for injuries.

(2) The operator shall retain any records related to the injury reporting system and emergency response plan described in Subsection (1).

(3) The operator shall make available to the Department of Health or the local health department, upon request:

  (a) the information contained in the injury reporting system described in Subsection (1); and

  (b) the records described in Subsection (2).

Enacted by Chapter 50, 2019 General Session

Part 4
Compliance

11-63-401 Annual certification to local regulating authority.

(1) A trampoline park operator shall provide the certifications described in Subsection (2):

(a) at the time a trampoline park operator applies to a local regulating authority to renew a business license to operate a trampoline park; and
(b) if the term of the license described in Subsection (1)(a) exceeds one year, at least once per calendar year.

(2) In accordance with Subsection (1), a trampoline park operator shall certify compliance with this chapter by submitting to the local regulating authority:
(a) an inspection certificate described in Subsection 11-63-402(3); and
(b) the certification of insurance described in Subsection 11-63-501(2).

Enacted by Chapter 50, 2019 General Session

11-63-402 Inspection.

A trampoline park operator shall:

(1) ensure that an inspector conducts an inspection of the facilities and records of the trampoline park at least once per calendar year to certify compliance with:
(a) industry safety standards, including each category of standards described in Section 11-63-301; and
(b) this chapter, including safety standards described in Sections 11-63-302, 11-63-303, 11-63-304, and 11-63-305;

(2) during the inspection described in Subsection (1), provide the inspector with:
(a) proof that the trampoline court is maintained in good repair;
(b) an emergency response plan; and
(c) maintenance, inspection, staff member training, and injury logs; and

(3) obtain from the inspector a written report documenting the inspection and a certificate certifying that:
(a) the trampoline park has successfully passed the inspection described in this section; and
(b) the trampoline park is in full compliance with this chapter.

Enacted by Chapter 50, 2019 General Session

Part 5
Liability

11-63-501 Insurance.

A trampoline park operator shall:

(1) maintain insurance providing liability coverage of at least $1,000,000 in the aggregate and $500,000 per incident to cover injuries to participants arising out of any negligence or misconduct by the trampoline park operator or staff in the construction, maintenance, or operation of the trampoline park;

(2) maintain a certificate of insurance demonstrating compliance with this section; and

(3) notify the licensing staff of the local regulating authority within 24 hours of the lapse, expiration, or cancellation of the insurance described in Subsection (1).

Enacted by Chapter 50, 2019 General Session

11-63-502 Claims for inherent risks.

Notwithstanding anything in this chapter to the contrary, if a participant makes a claim against an operator for an injury resulting from an inherent risk:
(1) the operator may raise as a defense the operator's compliance with Sections 11-63-301, 11-63-302, 11-63-303, 11-63-304, and 11-63-305; and
(2) the factfinder shall consider, in accordance with Section 78B-5-818, the operator's compliance described in Subsection (1).

Enacted by Chapter 50, 2019 General Session

Chapter 64
Investigation Reviews

11-64-101 Review of open investigation.
(1) An individual who is a victim of a first degree felony, or who is a family member of a missing person or homicide victim, may request review of a criminal investigation if:
(a) the incident was reported for investigation to a law enforcement agency with jurisdiction to investigate the incident;
(b) at least one year has passed from the date the incident was first reported for investigation to a law enforcement agency with jurisdiction to investigate the incident; and
(c) the law enforcement agency investigating the incident has not submitted the investigation results to be screened for criminal charges by the county or district attorney in the jurisdiction in which the incident occurred.
(2)
(a) An individual who is a victim of a first degree felony, or who is a family member of a missing person or homicide victim, may request review of the investigation by the chief executive of the law enforcement agency investigating the incident. Within 30 days after receiving a request, the chief executive of the law enforcement agency shall meet with the investigating officers to evaluate the investigation, including existing leads and obstacles and investigative resources that may be available to move the investigation to conclusion, and develop a plan to:
(i) close the investigation;
(ii) undertake further investigative steps; or
(iii) submit the investigation results to be screened for criminal charges by the county or district attorney in the jurisdiction in which the incident occurred.
(b) Within 60 days after receiving a request for review under Subsection (2)(a), the chief executive of the law enforcement agency investigating the incident shall send written notification to the individual who made the review request advising the individual whether the agency will:
(i) close the investigation;
(ii) undertake further investigative steps; or
(iii) submit the investigation results to be screened for criminal charges.
(3)
(a) If the written notification under Subsection (2)(b) indicates further investigative steps will be undertaken or that the investigation results will be submitted to be screened for criminal charges and no charges have been filed within 90 days following the date of the written

notification under Subsection (2)(b), or the investigation will be closed, the individual who is a victim of crime, or who is a family member of a victim of crime, may submit a second request to the law enforcement agency investigating the incident that the investigation results and all evidence be transferred to the county attorney with jurisdiction over the area in which the incident occurred.

(b) Within 15 days after receiving a transfer request under Subsection (3)(a), the chief executive of the law enforcement agency shall forward the investigation results to the county attorney as requested by the victim or victim's family.

(c) Within 30 days of receiving the investigation results from the law enforcement agency investigating the incident, the county attorney shall evaluate the investigation, including existing leads and obstacles, evidence, and investigative resources that may be available to move the investigation to conclusion, and:

(i) develop a plan to undertake further investigative steps; or

(ii) decline to accept the transferred investigation.

(d) Within 60 days after receiving the investigation results from the law enforcement agency investigating the incident, the county attorney shall send written notification to the individual who made the transfer request advising the individual whether the county attorney will undertake further investigative steps.

(4) If the county attorney declines to accept the transferred investigation, it shall return all evidence and information to the law enforcement agency within 30 days.

(5) Nothing in this section requires a law enforcement agency or prosecuting agency to close an investigation if charges are not filed within the time frames set forth in this section.

(6) An individual who is a victim of a first degree felony, or who is a family member of a missing person or homicide victim, may seek review of an investigation by the attorney general, pursuant to its concurrent jurisdiction to investigate and prosecute crimes in any city or county of the state.

(a) Within 30 days of receiving a request from an individual who is a victim of a first degree felony, or who is a family member of a missing person or homicide victim, to accept a transferred investigation, the attorney general shall request from the law enforcement agency all evidence and information regarding the investigation.

(b) Within 60 days after receiving the investigation information from the law enforcement agency investigating the incident, the attorney general shall review all evidence and information received and make a determination regarding the investigation.

(c) The attorney general shall send written notification to the individual who made the transfer request within 60 days of its decision to decline or continue an investigation.

Enacted by Chapter 183, 2019 General Session

Chapter 65
Utah Lake Authority Act

Part 1
General Provisions

11-65-101 Definitions.

As used in this chapter:

(1) "Adjacent political subdivision" means a political subdivision of the state with a boundary that abuts the lake authority boundary or includes lake authority land.
(2) "Board" means the lake authority's governing body, created in Section 11-65-301.
(3) "Lake authority" means the Utah Lake Authority, created in Section 11-65-201.
(4) "Lake authority boundary" means the boundary:
  (a) defined by recorded boundary settlement agreements between private landowners and the Division of Forestry, Fire, and State Lands; and
  (b) that separates privately owned land from Utah Lake sovereign land.
(5) "Lake authority land" means land on the lake side of the lake authority boundary.
(6) "Management" means work to coordinate and facilitate the improvement of Utah Lake, including work to enhance the long-term viability and health of Utah Lake and to produce economic, aesthetic, recreational, environmental, and other benefits for the state, consistent with the strategies, policies, and objectives described in this chapter.
(7) "Management plan" means a plan to conceptualize, design, facilitate, coordinate, encourage, and bring about the management of the lake authority land to achieve the policies and objectives described in Section 11-65-203.
(8) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-65-302(6) who does not have the power to vote on matters of lake authority business.
(9) "Project area" means an area that is identified in a project area plan as the area where the management described in the project area plan will occur.
(10) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area.
(11) "Project area plan" means a written plan that, after the plan's effective date, manages activity within a project area within the scope of a management plan.
(12) "Public entity" means:
  (a) the state, including each department, division, or other agency of the state; or
  (b) a county, city, town, metro township, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state.
(13) "Publicly owned infrastructure and improvements":
  (a) means infrastructure, improvements, facilities, or buildings that:
    (i) benefit the public; and
    (ii)
      (A) are owned by a public entity or a utility; or
      (B) are publicly maintained or operated by a public entity;
  (b) includes:
    (i) facilities, lines, or systems that provide:
      (A) water, chilled water, or steam; or
      (B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service; and
    (ii) streets, roads, curbs, gutters, sidewalks, walkways, solid waste facilities, parking facilities, and public transportation facilities.
(14) "Sovereign land" means land:
  (a) lying below the ordinary high water mark of a navigable body of water at the date of statehood; and
  (b) owned by the state by virtue of the state's sovereignty.

(15) "Utah Lake" includes all waters of Utah Lake and all land, whether or not submerged under water, within the lake authority boundary.
(16) "Voting member" means an individual appointed as a member of the board under Subsection 11-65-302(2).

Amended by Chapter 16, 2023 General Session

11-65-102 Severability.

If a court determines that any provision of this chapter, or the application of any provision of this chapter, is invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

Enacted by Chapter 59, 2022 General Session

11-65-103 Nonlapsing funds.

Money the lake authority receives from legislative appropriations is nonlapsing.

Enacted by Chapter 59, 2022 General Session

Part 2
Utah Lake Authority

11-65-201 Creation of Utah Lake Authority -- Status and purposes.

(1) Under the authority of Utah Constitution, Article XI, Section 8, there is created the Utah Lake Authority.
(2) The lake authority is:
  (a) an independent, nonprofit, separate body corporate and politic, with perpetual succession;
  (b) a political subdivision of the state; and
  (c) a public corporation, as defined in Section 63E-1-102.
(3)
  (a) The statewide public purpose of the lake authority is to work in concert with applicable federal, state, and local government entities, property owners, owners of water rights, private parties, and stakeholders to encourage, facilitate, and implement the management of Utah Lake.
  (b) The duties and responsibilities of the lake authority under this chapter are beyond the scope and capacity of any local government entity, which has many other responsibilities and functions that appropriately command the attention and resources of the local government entity, and are not functions of purely local concern but are matters of regional and statewide concern, importance, interest, and impact, due to multiple factors, including:
    (i) the importance and benefit to the region and state of a healthy, vibrant, and ecologically sound Utah Lake; and
    (ii) the enormous potential for regional and statewide economic, aesthetic, environmental, recreational, and other benefit that can come from the management of Utah Lake.
  (c) The lake authority is the mechanism the state chooses to focus resources and efforts on behalf of the state to ensure that the regional and statewide interests, concerns, and

purposes described in this Subsection (3) are properly addressed from more of a statewide perspective than any local government entity can provide.

(4)

(a) The lake authority supplants and replaces the Utah Lake Commission, established by interlocal agreement.

(b) The Utah Lake Commission shall:

(i) cooperate with the lake authority to transition, as soon as practicable, Utah Lake Commission functions to the lake authority, to the extent consistent with this chapter; and

(ii) take all necessary actions to dissolve the Utah Lake Commission no later than May 1, 2023.

(c) The lake authority may, by majority vote of the board, succeed to the position of the Utah Lake Commission in any contract in which the Utah Lake Commission is a party.

(d)

(i) As part of the transition from the Utah Lake Commission to the lake authority, the lake authority shall offer an employee of the Utah Lake Commission employment with the lake authority in the same or a comparable position and with the same or comparable compensation as the employee had as an employee of the Utah Lake Commission.

(ii) Subsection (4)(d)(i) may not be construed to affect the at-will status of an individual who becomes an employee of the lake authority.

(e) After the authority board is constituted, an advisory or technical committee established by the Utah Lake Commission shall continue to function under the direction of the board as a subcommittee of the lake authority until the board modifies or discontinues the subcommittee.

Enacted by Chapter 59, 2022 General Session

11-65-202 Lake authority powers and duties.

(1)

(a) The lake authority has land use authority over publicly owned land within the lake authority boundary.

(b) The lake authority shall work with other government entities with jurisdiction over sovereign land and the watershed affecting Utah Lake water to improve the quality of water flowing into and out of Utah Lake, subject to and consistent with Title 19, Environmental Quality Code, and Title 73, Water and Irrigation.

(c) The lake authority may make recommendations and provide advice to an adjacent political subdivision relating to issues affecting both the lake authority and the adjacent political subdivision.

(d) The lake authority has no jurisdictional control or power over:

(i) another political subdivision, except as provided in an agreement between the lake authority and the other political subdivision;

(ii) the regulation of water quality;

(iii) water rights;

(iv) water collection, storage, or delivery;

(v) a project for water collection, storage, or delivery; and

(vi) water facilities that the lake authority does not own.

(2) The lake authority may coordinate the efforts of all applicable state and local government entities, property owners, owners of water rights, and other private parties, and other stakeholders to:

(a) develop and implement a management plan for Utah Lake, including:

(i) an environmental sustainability component, developed in conjunction with the Department of Environmental Quality and the Division of Wildlife Resources incorporating strategies and best management practices to meet applicable federal and state standards, including:
(A) water quality monitoring and reporting; and
(B) strategies that use the best available technology and practices to mitigate environmental impacts from management and uses on Utah Lake;
(ii) strategies that enhance the aesthetic qualities and recreational use and enjoyment of Utah Lake; and
(iii) strategies that enhance economic development in communities adjacent to Utah Lake;
(b) plan and facilitate the management of Utah Lake uses; and
(c) manage any land owned or leased by the lake authority that is not sovereign land.
(3) The lake authority has primary responsibility and authority for the management of Utah Lake, subject to and in accordance with this chapter.
(4) The lake authority may:
(a) engage in education efforts to encourage and facilitate:
(i) the improvement of water and environmental quality;
(ii) the use of Utah Lake for recreation;
(iii) the improvement of economic development on Utah Lake; and
(iv) other management of Utah Lake consistent with the policies and objectives described in Subsection (2);
(b) facilitate and provide funding for the management of Utah Lake, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to Utah Lake;
(c) engage in marketing activities and efforts to encourage and facilitate management of Utah Lake;
(d) as determined by the board appropriate to accomplish or further the policies and objectives described in Subsection (2):
(i) take all necessary actions to acquire any grants or other available funds from federal or other governmental or private entities, including providing matching funds;
(ii) award grants of lake authority funds; or
(iii) provide waivers of financial obligations to the lake authority;
(e) as the lake authority considers necessary or advisable to carry out any of the lake authority's duties or responsibilities under this chapter:
(i) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;
(ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real property that is not sovereign land or any interest in personal property; or
(iii) enter into a lease agreement on real or personal property, either as lessee or lessor;
(f) sue and be sued;
(g) enter into contracts generally;
(h) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to Utah Lake;
(i) exercise powers and perform functions under a contract, as authorized in the contract;
(j) accept financial or other assistance from any public or private source for the lake authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;
(k) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(l) issue bonds to finance the undertaking of any management objectives of the lake authority, including bonds under this chapter, bonds under Chapter 17, Utah Industrial Facilities and Development Act, bonds under Chapter 42, Assessment Area Act, and bonds under Chapter 42a, Commercial Property Assessed Clean Energy Act;
(m) hire employees, including contract employees;
(n) transact other business and exercise all other powers provided for in this chapter;
(o) engage one or more consultants to advise or assist the lake authority in the performance of the lake authority's duties and responsibilities;
(p) work with adjacent political subdivisions and neighboring property owners and communities to mitigate potential negative impacts from the management of Utah Lake;
(q) help to facilitate development in a municipality or community reinvestment agency whose boundary abuts the lake authority boundary if the development also benefits the lake authority or the management of Utah Lake;
(r) subject to Subsection (5)(a), manage one or more marina facilities if the lake authority considers the lake authority managing the marina facility to be necessary or desirable;
(s) subject to Subsection (5)(b), own and operate publicly owned infrastructure and improvements in a project area outside the lake authority land; and
(t) exercise powers and perform functions that the lake authority is authorized by statute to exercise or perform.

(5)
(a) Notwithstanding Subsection (4)(r), the lake authority may not interfere with or replace the management of a privately operated marina.
(b) Notwithstanding Subsection (4)(s), the lake authority may not provide service through publicly owned infrastructure and improvements to an area outside the lake authority boundary.
(c) The lake authority may not impair or affect:
(i) a right to store, use, exchange, release, or deliver water under a water right and associated contract; or
(ii) a project or facility to store, release, and deliver water.

(6) The lake authority may consult, coordinate, enter into agreements, or engage in mutually beneficial projects or other activities with a municipality, community reinvestment agency, or adjacent political subdivision, as the board considers appropriate.

(7) The lake authority shall:
(a) no later than December 31, 2022, prepare an accurate digital map of the lake authority boundary, subject to any later changes to the boundary enacted by the Legislature; and
(b) maintain the digital map of the lake authority boundary that is easily accessible by the public.

(8)
(a) The lake authority may establish a community enhancement program designed to address the impacts that management or uses within the lake authority boundary have on adjacent communities.
(b)
(i) The lake authority may use lake authority money to support the community enhancement program and to pay for efforts to address the impacts described in Subsection (8)(a).
(ii) Lake authority money designated for use under Subsection (8)(b)(i) is exempt from execution or any other process in the collection of a judgment against or debt or other obligation of the lake authority arising out of the lake authority's activities with respect to the community enhancement program.

(c) On or before October 31, 2023, the lake authority shall report on the lake authority's actions under this Subsection (8) to the Natural Resources, Agriculture, and Environment Interim Committee of the Legislature.

Enacted by Chapter 59, 2022 General Session

11-65-203 Policies and objectives of the lake authority -- Additional duties of the lake authority.

(1) The policies and objectives of the lake authority are to:
(a) protect and improve:
(i) the quality of Utah Lake's water, consistent with the Clean Water Act, 33 U.S.C. Sec. 1251 et seq., and Title 19, Chapter 5, Water Quality Act;
(ii) the beneficial and public trust uses of Utah Lake;
(iii) Utah Lake's environmental quality; and
(iv) the quality of Utah Lake's lakebed and sediments;
(b) enhance the recreational opportunities afforded by Utah Lake;
(c) enhance long-term economic benefits to the area, the region, and the state;
(d) respect and maintain sensitivity to the unique natural environment of areas in and around the lake authority boundary;
(e) improve air quality and minimize resource use;
(f) comply with existing land use and other agreements and arrangements between property owners and applicable governmental authorities;
(g) promote and encourage management and uses that are compatible with or complement the public trust and uses in areas in proximity to Utah Lake;
(h) take advantage of Utah Lake's strategic location and other features that make Utah Lake attractive:
(i) to residents for recreational purposes;
(ii) for tourism and leisure; and
(iii) for business opportunities;
(i) encourage the development and use of cost-efficient renewable energy in project areas;
(j) as consistent with applicable public trust, support and promote land uses on land within the lake authority boundary and land in adjacent political subdivisions that generate economic development, including rural economic development;
(k) respect and not interfere with water rights or the operation of water facilities or water projects associated with Utah Lake;
(l) respect and maintain sensitivity to the unique Native American history, historical sites, and artifacts within and around the lake authority boundary; and
(m) protect the ability of the Provo airport to operate and grow, consistent with applicable environmental regulations, recognizing the significant state investment in the airport and the benefits that a thriving airport provides to the quality of life and the economy.
(2) In fulfilling the lake authority's duties and responsibilities relating to the management of Utah Lake and to achieve and implement the management policies and objectives under Subsection (1), the lake authority shall:
(a) work to identify funding sources, including federal, state, and local government funding and private funding, for capital improvement projects in and around Utah Lake;
(b) review and identify land use and zoning policies and practices to recommend to land use policymakers and administrators of adjoining municipalities that are consistent with and will help to achieve the policies and objectives stated in Subsection (1);

(c) consult and coordinate with other applicable governmental entities to improve and enhance transportation and other infrastructure and facilities in order to maximize the potential of Utah Lake to attract, retain, and service users who will help enhance the long-term economic benefit to the state; and
(d) pursue policies that the board determines are designed to avoid or minimize negative environmental impacts of management.
(3) The lake authority shall respect:
(a) a permit issued by a governmental entity applicable to Utah Lake;
(b) a governmental entity's easement or other interest affecting Utah Lake;
(c) an agreement between governmental entities, including between a state agency and the federal government, relating to Utah Lake; and
(d) the public trust doctrine as applicable to land within the lake authority boundary.
(4)
(a) The lake authority may use lake authority money to encourage, incentivize, fund, or require development that:
(i) mitigates noise, air pollution, light pollution, surface and groundwater pollution, and other negative environmental impacts;
(ii) includes building or project designs that minimize negative impacts to the June Sucker, avian species, and other wildlife;
(iii) mitigates traffic congestion; or
(iv) uses high efficiency building construction and operation.
(b) In consultation with the municipality in which management is expected to occur and applicable state agencies, the lake authority shall establish minimum mitigation and environmental standards for management occurring on land within the lake authority boundary.

Enacted by Chapter 59, 2022 General Session

11-65-204 Management plan.
(1)
(a) The board shall prepare, adopt, and, subject to Subsection (1)(b), implement a management plan.
(b) The lake authority may not begin to implement a management plan until April 1, 2023.
(2) In preparing a management plan, the board shall:
(a) consult with and seek and consider input from the legislative or governing body of each adjacent political subdivision;
(b) work cooperatively with and receive input from the Division of Forestry, Fire, and State Lands; and
(c) consider how the interests of adjacent political subdivisions would be affected by implementation of the management plan.
(3) A management plan shall:
(a) describe in general terms the lake authority's:
(i) vision and plan for achieving and implementing the policies and objectives stated in Section 11-65-203; and
(ii) overall plan for the management of Utah Lake, including an anticipated timetable and any anticipated phases of management;
(b) accommodate and advance, without sacrificing the policies and objectives stated in Section 11-65-203, the compatible interests of adjacent political subdivisions;

(c) describe in general terms how the lake authority anticipates cooperating with adjacent political subdivisions to pursue mutually beneficial goals in connection with the management of Utah Lake;
(d) identify the anticipated sources of revenue for implementing the management plan; and
(e) be consistent with management planning conducted by the Division of Forestry, Fire, and State Lands, to pursue the objectives of:
(i) improving the clarity and quality of the water in Utah Lake;
(ii) not interfering with water rights or with water storage or water supply functions of Utah Lake;
(iii) removing invasive plant and animal species, including phragmites and carp, from Utah Lake;
(iv) improving littoral zone and other plant communities in and around Utah Lake;
(v) improving and conserving native fish and other aquatic species in Utah Lake;
(vi) cooperating in the June Sucker Recovery Implementation Program;
(vii) increasing the suitability of Utah Lake and Utah Lake's surrounding areas for shore birds, waterfowl, and other avian species;
(viii) improving navigability of Utah Lake;
(ix) enhancing and ensuring recreational access to and opportunities on Utah Lake; and
(x) otherwise improving the use of Utah Lake for residents and visitors.
(4) A management plan may not interfere with or impair:
(a) a water right;
(b) a water project; or
(c) the management of Utah Lake necessary for the use or operation of a water facility associated with Utah Lake.
(5)
(a) Before adopting a management plan, the board shall:
(i) provide a copy of the proposed management plan to:
(A) the executive director of the Department of Natural Resources;
(B) the executive director of the Department of Environmental Quality;
(C) the state engineer; and
(D) each adjacent political subdivision; and
(ii) provide a copy of the proposed management plan, for Utah County, as a class A notice under Section 63G-30-102, for at least 30 days.
(b) Comments or suggestions relating to the proposed management plan may be submitted to the board within the deadline established under Subsection (5)(c).
(c) The board shall establish a deadline for submitting comments or suggestions to the proposed management plan that is at least 30 days after the board provides a copy of the proposed management plan under Subsection (5)(a)(i).
(d) Before adopting a management plan, the board shall consider comments and suggestions that are submitted by the deadline established under Subsection (5)(c).

Amended by Chapter 435, 2023 General Session

11-65-205 Project for the improvement of Utah Lake -- Role of the Division of Forestry, Fire, and State Lands -- Allowing the use of Utah Lake in exchange for the implementation of an improvement project.
(1) As used in this section:
(a) "Division" means the Division of Forestry, Fire, and State Lands created in Section 65A-1-4.

(b) "Improvement project" means a project for the improvement of Utah Lake as determined by the board.
(c) "Improvement project agreement" means an agreement under which an improvement project contractor agrees to undertake an improvement project.
(d) "Improvement project contractor" means a person who executes a legally binding improvement project agreement with the lake authority.
(2)
(a) Subject to Subsection (2)(b), the lake authority is substituted in the place of the division with respect to the management of Utah Lake.
(b) Subsection (2)(a) does not affect the division's role and responsibility relating to:
(i) the administration and issuance of permits, leases, rights of entry, or easements; or
(ii) the disposal of lake authority land.
(3) The lake authority may enter into an improvement project agreement if:
(a) the lake authority finds that the improvement project will fulfill the purposes listed in Section 11-65-203;
(b) the proposed improvement project is consistent with the public trust doctrine and the provisions of this chapter;
(c) the improvement project contractor obtains necessary permitting authorization from the division to construct or implement the improvement project on lake authority land; and
(d) at least 30 days before entering into the improvement project agreement, the lake authority provides notice of the lake authority's intention to enter into the improvement project agreement to each person that has requested notice under Subsection 11-65-402(2)(c) of the lake authority's intention to enter into the improvement project agreement.
(4)
(a) An improvement project agreement may include a provision allowing the division to permit a use of Utah Lake, consistent with the public trust doctrine, in exchange for the implementation of the improvement project agreement, as provided in this Subsection (4).
(b)
(i) If provided for in an improvement project agreement, the lake authority may recommend that the division allow the use of Utah Lake in exchange for the implementation of the improvement project agreement.
(ii) In making a recommendation under Subsection (4)(b)(i), the lake authority shall consider:
(A) the potential benefit to the citizens of the state from execution of an improvement project, the desirability of the proposed use of Utah Lake and the surrounding areas as a result of the improvement project, and the enhancement of the usability and enjoyment of Utah Lake and lake authority land that will accrue to the public because of the improvement project;
(B) the potential detriment to appropriated water rights in Utah Lake, in upstream tributaries, and downstream of Utah Lake;
(C) the potential that the improvement project presents for additional revenue to state and local government entities;
(D) the enhancement to state property resulting from the proposed use of Utah Lake allowed to be used in exchange for the execution of the improvement project;
(E) the proposed timetable for completion of the improvement project;
(F) the ability of the improvement project contractor to execute and complete the improvement project satisfactorily; and

(G) the effects of the improvement project on lake ecology, including the ability to avoid or mitigate negative impacts to wetlands and to migratory birds, fish species, and other wildlife.

(c) The division shall issue a permit for the use of Utah Lake in accordance with a recommendation under Subsection (4)(b)(i) if:

(i) the authority makes a recommendation under Subsection (4)(b)(i); and

(ii) the division finds the proposed use to be consistent with:

(A) management plans applicable to Utah Lake; and

(B) the public trust doctrine.

(d) Nothing in this Subsection (4) may be construed to allow the disposition of title to any land within the lake authority boundary in exchange for the implementation of an improvement project.

Enacted by Chapter 59, 2022 General Session

11-65-206 Applicability of other law -- Cooperation of state and local governments -- Authority of other agencies not affected -- Attorney general to provide legal services.

(1) The lake authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(2) A department, division, or other agency of the state and a political subdivision of the state is encouraged, upon the board's request, to cooperate with the lake authority to provide the support, information, or other assistance reasonably necessary to help the lake authority fulfill the lake authority's duties and responsibilities under this chapter.

(3) Nothing in this chapter may be construed to affect or impair:

(a) the authority of the Department of Environmental Quality, created in Section 19-1-104, to regulate under Title 19, Environmental Quality Code, consistent with the purposes of this chapter; or

(b) the authority of the Division of Wildlife Resources, created in Section 23A-2-201, to regulate under Title 23A, Wildlife Resources Act, consistent with the purposes of this chapter.

(4) In accordance with Utah Constitution, Article XVII, Section 1, nothing in this chapter may be construed to override, supersede, interfere with, or modify:

(a) any water right in the state;

(b) the operation of a water facility or project; or

(c) the role or authority of the state engineer.

(5)

(a) Except as otherwise explicitly provided, nothing in this chapter may be construed to authorize the lake authority to interfere with or take the place of another governmental entity in that entity's process of considering an application or request for a license, permit, or other regulatory or governmental permission for an action relating to water of Utah Lake or land within the lake authority boundary.

(b) The lake authority shall respect and, if applicable and within the lake authority's powers, implement a license, permit, or other regulatory or governmental permission described in Subsection (5)(a).

(6) Nothing in this chapter may be construed to allow the authority to:

(a) consider an application for the disposal of land within the lake authority boundary under Title 65A, Chapter 15, Utah Lake Restoration Act; or

(b) issue bonding or other financing for a project under Title 65A, Chapter 15, Utah Lake Restoration Act.
(7) The attorney general shall provide legal services to the board.

Amended by Chapter 34, 2023 General Session

Part 3
Lake Authority Board

11-65-301 Utah Lake Authority board -- Delegation of power.
(1) The lake authority shall be governed by a board which shall manage and conduct the business and affairs of the lake authority and shall determine all questions of lake authority policy.
(2) All powers of the lake authority are exercised through the board or, as provided in Section 11-65-305, the executive director.
(3) The board may by resolution delegate powers to lake authority staff.
(4) To consult with and advise the board in the performance of the board's duties in fulfilling the purposes of the lake authority, the board shall appoint:
(a) one or more advisory committees;
(b) one or more technical committees;
(c) one or more local government groups; and
(d) one or more stakeholder groups.

Enacted by Chapter 59, 2022 General Session

11-65-302 Number of board members -- Appointment -- Vacancies.
(1) The lake authority's board shall consist of 15 members, as provided in Subsection (2).
(2)
(a) The governor shall appoint two board members, at least one of whom shall be from the Governor's Office of Economic Opportunity.
(b) The president of the Senate shall appoint as one board member an individual who holds office as a member of the Senate and whose Senate district includes an area within Utah County.
(c) The speaker of the House of Representatives shall appoint as one board member an individual who holds office as a member of the House of Representatives and whose House of Representatives district includes an area within Utah County.
(d) The legislative body of Utah County shall appoint a member of the legislative body of Utah County as a board member.
(e)
(i) The Utah County Council of Governments shall appoint eight board members, at least one of whom shall be an individual selected from among individuals designated by chambers of commerce in Utah County, each of which may recommend an individual for appointment to the board.
(ii) Except for a member appointed as designated by a chamber of commerce in Utah County, all members appointed by the Utah County Council of Governments shall be elected officials from municipalities whose boundaries are no more than one half mile from the lake authority boundary.

(iii) The initial members appointed by the Utah County Council of Governments shall include:
(A) an individual designated by the legislative body of the city of Lehi;
(B) an individual designated by the legislative body of the city of Lindon;
(C) an individual designated by the legislative body of the city of Spanish Fork;
(D) an individual who is an elected officer of the city of Provo, designated by the mayor of the city of Provo;
(E) an individual who is an elected officer of the city of Orem, designated by the legislative body of the city of Orem;
(F) an individual who is an elected officer of the city of Vineyard, designated by the legislative body of the city of Vineyard; and
(G) an individual who is an elected officer of the city of Saratoga Springs, designated by the legislative body of the city of Saratoga Springs.
(f) The executive director of the Department of Natural Resources shall appoint one board member.
(g) The executive director of the Department of Environmental Quality shall appoint one board member.
(3) Appointments required under Subsection (2) shall be made no later than June 1, 2022.
(4)
(a) A vacancy in the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.
(b) An individual appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the individual is filling.
(5) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.
(6) The lake authority may appoint nonvoting members of the board and set terms for those nonvoting members.
(7) Upon a vote of a majority of all board members, the board may appoint a board chair and any other officer of the board.
(8) The board:
(a) may appoint one or more advisory committees that may include individuals from impacted public entities, community organizations, environmental organizations, business organizations, or other organizations or associations; and
(b) shall appoint an advisory committee to advise on:
(i) water rights, water projects, and water facilities associated with Utah Lake; and
(ii) recreation and avian and other wildlife activities on Utah Lake.

Amended by Chapter 204, 2023 General Session

11-65-303 Term of board members -- Quorum -- Compensation.
(1) The term of a board member appointed under Subsection 11-65-302(2) is four years, except that the initial term is two years for:
(a) one of the two members appointed under Subsection 11-65-302(2)(a), as designated by the governor;
(b) four of the eight members appointed under Subsection 11-65-302(2)(e), as designated by the Utah County Council of Governments; and
(c) the members appointed under Subsections 11-65-302(2)(f) and (g).

(2) Each board member shall serve until a successor is duly appointed and qualified.
(3) A board member may serve multiple terms if duly appointed to serve each term under Subsection 11-65-302(2).
(4) A majority of board members constitutes a quorum, and the action of a majority of a quorum constitutes action of the board.
(5)
(a) A board member who is not a legislator may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member as allowed in:
(i) Sections 63A-3-106 and 63A-3-107; and
(ii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Enacted by Chapter 59, 2022 General Session

11-65-304 Limitations on board members and executive director.
(1) As used in this section:
(a) "Direct financial benefit":
(i) means any form of financial benefit that accrues to an individual directly, including:
(A) compensation, commission, or any other form of a payment or increase of money; and
(B) an increase in the value of a business or property; and
(ii) does not include a financial benefit that accrues to the public generally.
(b) "Family member" means a parent, spouse, sibling, child, or grandchild.
(2) An individual may not serve as a voting member of the board or as executive director if the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the individual reasonably believes is likely to participate in or receive a direct financial benefit from the management of Utah Lake.
(3) Before taking office as a voting member of the board or accepting employment as executive director, an individual shall submit to the lake authority a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2).
(4)
(a) A voting member or nonvoting member of the board or an employee of the lake authority may not receive a direct financial benefit from the management of Utah Lake.
(b) For purposes of Subsection (4)(a), a direct financial benefit does not include:
(i) expense reimbursements;
(ii) per diem pay for board member service, if applicable; or
(iii) an employee's compensation or benefits from employment with the lake authority.
(5) Nothing in this section may be construed to affect the application or effect of any other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Enacted by Chapter 59, 2022 General Session

11-65-305 Executive director.
(1)

(a) The director of the Utah Lake Commission shall be the initial full-time executive director of the authority.
(b) Subsection (1)(a) does not affect the status of the executive director as an at-will employee.
(2)
(a) The executive director is the chief executive officer of the lake authority.
(b) The role of the executive director is to:
(i) manage and oversee the day-to-day operations of the lake authority;
(ii) fulfill the executive and administrative duties and responsibilities of the lake authority; and
(iii) perform other functions, as directed by the board.
(3) The executive director shall have the education, experience, and training necessary to perform the executive director's duties in a way that maximizes the potential for successfully achieving and implementing the strategies, policies, and objectives stated in Section 11-65-203.
(4) An executive director is an at-will employee who serves at the pleasure of the board and may be removed by the board at any time.
(5) The board shall establish the duties, compensation, and benefits of an executive director.

Enacted by Chapter 59, 2022 General Session

11-65-306 Development of standards and criteria to measure progress toward achieving lake authority policies and objectives -- Annual report.
(1) The board shall develop standards and criteria by which to measure:
(a) the condition of Utah Lake as of 2022; and
(b) the extent to which efforts of the lake authority improve the condition of Utah Lake and achieve the policies and objectives of Section 11-65-203.
(2) In developing the standards and criteria, the board shall consult with and consider recommendations by:
(a) the Department of Environmental Quality;
(b) the Division of Water Quality;
(c) the Division of Forestry, Fire, and State Lands;
(d) the Division of Wildlife Resources;
(e) the Division of State Parks;
(f) the Division of Outdoor Recreation;
(g) the Division of Water Resources;
(h) the Division of Water Rights; and
(i) the Department of Agriculture and Food.
(3) Beginning in 2023, the board shall produce an annual report that explains the degree to which efforts of the lake authority are improving the condition of Utah Lake and achieving the policies and objectives of Section 11-65-203, in accordance with the standards and criteria developed under this section.

Enacted by Chapter 59, 2022 General Session

Part 4
Project Area Plan and Budget

11-65-401 Preparation of project area plan -- Required contents of project area plan.

(1)
(a) The lake authority board's adoption of a project area plan is governed by this part.
(b) In order to adopt a project area plan, the lake authority board shall:
(i) prepare a draft project area plan;
(ii) give notice as required under Subsection 11-65-402(2);
(iii) hold the public meetings required under Subsection 11-65-402(1) at least 30 days apart; and
(iv) after holding the required public meetings and subject to Subsection (1)(c), adopt the draft project area plan as the project area plan.
(c)
(i) The lake authority board may not adopt the project area plan until at least 30 days after the last public meeting under Section 11-65-402.
(ii) Before adopting a draft project area plan as the project area plan, the lake authority board may make modifications to the draft project area plan that the board considers necessary or appropriate.
(d)
(i) A lease or development agreement that the lake authority enters before the creation of a project area shall provide that the board is not required to create a project area.
(ii) The lake authority may not be required to pay any amount or incur any loss or penalty for the board's failure to create a project area.
(2) Each project area plan and draft project area plan shall contain:
(a) a legal description of the boundary of the project area that is the subject of the project area plan;
(b) the lake authority's purposes and intent with respect to the project area;
(c) a description of any management proposed to occur within the project area; and
(d) the board's findings and determination that:
(i) there is a need to effectuate a public purpose;
(ii) there is a public benefit to the proposed management project;
(iii) it is economically sound and feasible to adopt and carry out the project area plan; and
(iv) carrying out the project area plan will promote the purposes of the lake authority, as stated in Section 11-65-203.

Enacted by Chapter 59, 2022 General Session

11-65-402 Public meetings to consider and discuss draft project area plan -- Notice -- Adoption of plan.

(1) The lake authority board shall hold at least two public meetings to:
(a) receive public comment on the draft project area plan; and
(b) consider and discuss the draft project area plan.
(2) At least 10 days before holding a public meeting under Subsection (1), the lake authority board shall:
(a) provide notice of the public meeting, for Utah County, as a class A notice under Section 63G-30-102, for at least 10 days;
(b) provide notice of the public meeting to a public entity that has entered into an agreement with the lake authority for sharing property tax revenue; and
(c) provide email notice of the public meeting to each person who has submitted a written request to the board to receive email notice of a public meeting under this section.

(3) Following consideration and discussion of the project area plan, the board may adopt the draft project area plan as the project area plan.

Amended by Chapter 435, 2023 General Session

11-65-403 Notice of project area plan adoption -- Effective date of plan -- Time limit on challenge to plan or project area.

(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (2) by publishing or causing to be published legal notice as required by Section 45-1-101.

(2)

(a) A notice under Subsection (1) shall include:

(i) the board resolution adopting the project area plan or a summary of the resolution; and

(ii) a statement that the project area plan is available for general public inspection and the hours for inspection.

(b) The statement required under Subsection (2)(a)(ii) may be included in the board resolution or summary described in Subsection (2)(a)(i).

(3) The project area plan becomes effective on the date designated in the board resolution adopting the project area plan.

(4) The lake authority shall make the adopted project area plan available to the general public at the lake authority's office during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the lake authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

(a) the State Tax Commission;

(b) the Utah Geospatial Resource Center created in Section 63A-16-505; and

(c) the assessor and recorder of each county where the project area is located.

(6) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 90 days after the effective date of the project area plan.

Enacted by Chapter 59, 2022 General Session

11-65-404 Amendment to a project area plan.

(1) The lake authority may amend a project area plan by following the same procedure under this part as applies to the adoption of a project area plan.

(2) The provisions of this part apply to the lake authority's adoption of an amendment to a project area plan to the same extent as they apply to the adoption of a project area plan.

(3) An amendment to a project area plan does not affect the base taxable value determination for property already within the project area before the amendment.

Enacted by Chapter 59, 2022 General Session

11-65-405 Project area budget.

(1) Before the lake authority may use authority funds to implement the management plan, the authority board shall prepare and adopt a project area budget.

(2) The lake authority board may amend an adopted project area budget as and when the lake authority board considers an amendment appropriate.
(3) If the lake authority adopts a budget under Part 6, Lake Authority Budget, Reporting, and Audits, that also meets the requirements of this part, the lake authority need not separately adopt a budget under this part.

Enacted by Chapter 59, 2022 General Session

Part 5
Lake Authority Bonds

11-65-501 Resolution authorizing issuance of lake authority bonds -- Characteristics of bonds -- Time limit for contesting bonds.
(1) The lake authority may not issue bonds under this part unless the board first:
  (a) adopts a parameters resolution for the bonds that sets forth:
    (i) the maximum:
      (A) amount of bonds;
      (B) term; and
      (C) interest rate; and
    (ii) the expected security for the bonds; and
  (b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.
(2)
  (a) As provided in the lake authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.
  (b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the lake authority resolution authorizing the issuance of the bonds or the trust indenture under which the bonds are issued.
(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution as required in Section 45-1-101.
(4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).
(5) For a period of 30 days after the publication, any person in interest may contest:
  (a) the legality of the resolution or proceeding;
  (b) any bonds that may be authorized by the resolution or proceeding; or
  (c) any provisions made for the security and payment of the bonds.
(6)
  (a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days after the publication under Subsection (5), in the district court of the county in which the person resides.

(b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).
(7) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including amount of the bonds, terms, interest rate, and security, to:
(a) the Executive Appropriations Committee; and
(b) the State Finance Review Commission created in Section 63C-25-201.

Enacted by Chapter 59, 2022 General Session
Amended by Chapter 207, 2022 General Session, (Coordination Clause)

11-65-502 Sources from which bonds may be made payable -- Lake authority powers regarding bonds.
(1) The principal and interest on bonds issued by the lake authority may be made payable from:
(a) the income and revenues of the projects financed with the proceeds of the bonds;
(b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;
(c) the income, proceeds, revenues, property, and funds the lake authority derives from or holds in connection with the lake authority's undertaking and carrying out management of lake authority land;
(d) lake authority revenues generally;
(e) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the lake authority; or
(f) funds derived from any combination of the methods listed in Subsections (1)(a) through (e).
(2) In connection with the issuance of lake authority bonds, the lake authority may:
(a) pledge all or any part of the lake authority's gross or net rents, fees, or revenues to which the lake authority then has the right or to which the lake authority may thereafter acquire a right; and
(b) make the covenants and take the action that may be necessary, convenient, or desirable to secure the lake authority's bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Enacted by Chapter 59, 2022 General Session

11-65-503 Purchase of lake authority bonds.
(1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by the lake authority under this part with funds owned or controlled by the purchaser.
(2) Nothing in this section may be construed to relieve a purchaser of lake authority bonds of any duty to exercise reasonable care in selecting securities.

Enacted by Chapter 59, 2022 General Session

11-65-504 Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.
(1) A member of the board or other person executing a lake authority bond is not liable personally on the bond.

(2)

(a) A bond issued by the lake authority is not a general obligation or liability of the state or any of the state's political subdivisions and does not constitute a charge against the general credit or taxing powers of the state or any of the state's political subdivisions.

(b) A bond issued by the lake authority is not payable out of any funds or properties other than those of the lake authority.

(c) The state and the state's political subdivisions are not and may not be held liable on a bond issued by the lake authority.

(d) A bond issued by the lake authority does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.

(3) A bond issued by the lake authority under this part is fully negotiable.

Enacted by Chapter 59, 2022 General Session

11-65-505 Obligee rights -- Board may confer other rights.

(1) In addition to all other rights that are conferred on an obligee of a bond issued by the lake authority under this part, and subject to contractual restrictions binding on the obligee, an obligee may:

(a) by mandamus, suit, action, or other proceeding, compel the lake authority and the lake authority's board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the lake authority with or for the benefit of the obligee, and require the lake authority to carry out the covenants and agreements of the lake authority and to fulfill all duties imposed on the lake authority by this part; and

(b) by suit, action, or proceeding in equity, enjoin any acts or things that may be unlawful or violate the rights of the obligee.

(2)

(a) In a board resolution authorizing the issuance of bonds or in a trust indenture, mortgage, lease, or other contract, the board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.

(b)

(i) The rights that the board may confer under Subsection (2)(a) are the rights to:

(A) cause possession of all or part of a development project to be surrendered to an obligee;

(B) obtain the appointment of a receiver of all or part of a lake authority's development project and of the rents and profits from it; and

(C) require the lake authority and the lake authority's board and employees to account as if the lake authority and the board and employees were the trustees of an express trust.

(ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i)(B), the receiver:

(A) may enter and take possession of the development project or any part of the development project, operate and maintain the development project, and collect and receive all fees, rents, revenues, or other charges arising from the development project after the receiver's appointment; and

(B) shall keep money collected as receiver for the lake authority in separate accounts and apply the money pursuant to the lake authority obligations as the court directs.

Enacted by Chapter 59, 2022 General Session

11-65-506 Bonds exempt from taxes -- Lake authority may purchase its own bonds.

(1) A bond issued by the lake authority under this part is issued for an essential public and governmental purpose and is, together with interest on and income from the bond, exempt from all state taxes except the corporate franchise tax.

(2) The lake authority may purchase the lake authority's own bonds at a price that the board determines.

(3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the lake authority on the lake authority's rents, fees, grants, properties, or revenues.

Enacted by Chapter 59, 2022 General Session

Part 6
Lake Authority Budget, Reporting, and Audits

11-65-601 Annual lake authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file annual budget.

(1) The board shall prepare and adopt for the lake authority an annual budget of revenues and expenditures for each fiscal year.

(2) An annual lake authority budget shall be adopted before June 22, except that the lake authority's initial budget shall be adopted as soon as reasonably practicable after the organization of the board and the beginning of lake authority operations.

(3) The lake authority's fiscal year shall be the period from July 1 to the following June 30.

(4)

(a) Before adopting an annual budget, the board shall hold a public hearing on the annual budget.

(b) The lake authority shall provide notice of the public hearing on the annual budget by publishing notice, for Utah County, as a class A notice under Section 63G-30-102, for at least one week immediately before the date of the public hearing.

(c) The lake authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each lake authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of lake authority personnel.

(6) Within 30 days after adopting an annual budget, the board shall file a copy of the annual budget with the auditor of each county in which lake authority land is located, the State Tax Commission, and the state auditor.

Amended by Chapter 435, 2023 General Session

11-65-602 Amending the lake authority annual budget.

(1) The board may by resolution amend an annual lake authority budget.
(2) An amendment of the annual lake authority budget that would increase the total expenditures may be made only after a public hearing following notice published as required for initial adoption of the annual budget.
(3) The lake authority may not make expenditures in excess of the total expenditures established in the annual budget as the budget is adopted or amended.

Enacted by Chapter 59, 2022 General Session

11-65-603 Lake authority report.

Before November 30 of each year, the board shall present a report to the Executive Appropriations Committee of the Legislature, as the Executive Appropriations Committee directs, that includes:
(1) an accounting of how lake authority funds have been spent, including funds spent on the environmental sustainability component of the lake authority management plan under Subsection 11-65-202(2)(a);
(2) an update about the progress of the management and implementation of the lake authority management plan under Subsection 11-65-202(2)(a), including the development and implementation of the environmental sustainability component of the plan; and
(3) an explanation of the lake authority's progress in achieving the policies and objectives described in Section 11-65-203.

Enacted by Chapter 59, 2022 General Session

11-65-604 Audit requirements.

The lake authority shall comply with the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Enacted by Chapter 59, 2022 General Session

11-65-605 Audit report.

(1) The lake authority shall, within 180 days after the end of the lake authority's fiscal year, file a copy of the audit report with the county auditor and the state auditor.
(2) Each audit report under Subsection (1) shall include:
  (a) the outstanding principal amount of bonds issued or other loans incurred to finance the costs associated with the lake authority's projects; and
  (b) the actual amount expended for:
    (i) acquisition of property;
    (ii) site improvements or site preparation costs;
    (iii) installation of public utilities or other public improvements; and
    (iv) administrative costs of the lake authority.

Enacted by Chapter 59, 2022 General Session

11-65-606 Lake authority chief financial officer is a public treasurer -- Certain lake authority funds are public funds.

(1) The lake authority's chief financial officer:
  (a) is a public treasurer, as defined in Section 51-7-3; and

(b) shall invest the lake authority funds specified in Subsection (2) as provided in that subsection.
(2) Notwithstanding Subsection 63E-2-110(2)(a), appropriations that the lake authority receives from the state:
(a) are public funds; and
(b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

Enacted by Chapter 59, 2022 General Session

Part 7
Lake Authority Dissolution

11-65-701 Dissolution of lake authority -- Restrictions -- Notice of dissolution -- Disposition of lake authority property -- Lake authority records -- Dissolution expenses.
(1) The lake authority may not be dissolved unless the lake authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.
(2) Upon the dissolution of the lake authority:
(a) the Governor's Office of Economic Opportunity shall publish a notice of dissolution as required in Section 45-1-101; and
(b) all title to property owned by the lake authority vests in the state.
(3) The books, documents, records, papers, and seal of the dissolved lake authority shall be deposited for safekeeping and reference with the state auditor.
(4) The lake authority shall pay all expenses of the deactivation and dissolution.

Enacted by Chapter 59, 2022 General Session

Chapter 66
All-terrain Vehicle Regulation

11-66-101 Limits on regulation of all-terrain vehicles.
(1) As used in this chapter:
(a) "Political subdivision" means:
(i) a city, town, or metro township; or
(ii) a county, as it relates to the licensing and regulation of businesses in the unincorporated area of the county.
(b) "Street-legal ATV" means any all-terrain type vehicle that meets the requirements, including the registration, inspection, and license plate requirements, of being a street-legal ATV as described in Section 41-6a-1509.
(2) For any business, including a business that rents one or more street-legal ATVs, a political subdivision may not as a condition of the business obtaining or maintaining a business license or permit:
(a) require any additional inspection, registration, or license plate requirements, including requiring any additional sticker or other identifying mark, for any street-legal ATV owned or rented by the business;

(b) require any equipment modifications of a street-legal ATV owned or rented by the business; or
(c) limit the amount of street-legal ATVs owned or rented by the business.
(3) A political subdivision may not revoke or fail to renew a business license or permit of a business based on the violation of a traffic ordinance or other local ordinance by any customer of the business operating a street-legal ATV.
(4) A political subdivision may not enact or enforce an unreasonable noise ordinance that imposes a fine or other penalty for the operation of a street-legal ATV.

Enacted by Chapter 306, 2022 General Session

Chapter 67
Battery-charged Suspended-wire System

11-67-101 Battery-charged suspended-wire system.
(1) A political subdivision may not make an ordinance or other regulation prohibiting or otherwise regulating the installation of a battery-charged suspended-wire system on non-residential property, if the suspended-wire system:
(a) is installed, repaired, maintained, or replaced by a licensed alarm company or business or a licensed alarm company agent; and
(b) meets the requirements described in Subsection 58-55-308(5)(a).
(2) Nothing in this section may be construed to prevent a political subdivision from making an ordinance or other regulation related to a nonelectric perimeter wall or fence, or signage related to the perimeter wall or fence, that surrounds a battery-charged suspended-wire system.

Enacted by Chapter 446, 2022 General Session

Chapter 68
State Fair Park Authority Act

Part 1
General Provisions

11-68-101 Definitions.
As used in this chapter:
(1) "Authority" means the State Fair Park Authority, created in Section 11-68-201.
(2) "Board" means the authority board, created in Section 11-68-301.
(3) "Business related experience" means at least three years of professional experience in business administration, marketing, advertising, economic development, or a related field.
(4) "Capital development projects" means the same as that term is defined in Section 63A-5b-401.
(5) "Development" means:
(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (5)(a).
(6) "Division" means the Division of Facilities Construction and Management created in Section 63A-5b-301.
(7) "Executive director" means the executive director hired by the board under Section 11-68-302.
(8) "Fair corporation" means the Utah State Fair Corporation, created by Laws of Utah 1995, Chapter 260.
(9)
(a) "Fair park land" means the property owned by the state located at:
(i) 155 North 1000 West, Salt Lake City, Utah, consisting of approximately 50 acres;
(ii) 1139 West North Temple, Salt Lake City, Utah, consisting of approximately 10.5 acres; and
(iii) 1220 West North Temple, Salt Lake City, Utah, consisting of approximately two acres.
(b) "Fair park land" includes any land acquired by the authority under Subsection 11-68-201(6)(i).

Renumbered and Amended by Chapter 502, 2023 General Session

Part 2
State Fair Park Authority

11-68-201 State Fair Park Authority -- Legal status -- Powers.
(1) There is created the State Fair Park Authority.
(2) The authority is:
(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession;
(b) a political subdivision of the state; and
(c) a public corporation, as defined in Section 63E-1-102.
(3)
(a) The fair corporation is dissolved and ceases to exist, subject to any winding down and other actions necessary for a transition to the authority.
(b) The authority:
(i) replaces and is the successor to the fair corporation;
(ii) succeeds to all rights, obligations, privileges, immunities, and assets of the fair corporation; and
(iii) shall fulfill and perform all contractual and other obligations of the fair corporation.
(c) The board shall take all actions necessary and appropriate to wind down the affairs of the fair corporation as quickly as practicable and to make a transition from the fair corporation to the authority.
(4) The authority shall:
(a) manage, supervise, and control:
(i) all activities relating to the annual exhibition described in Subsection (4)(j); and
(ii) except as otherwise provided by statute, all state expositions, including setting the time, place, and purpose of any state exposition;
(b) for public entertainment, displays, and exhibits or similar events held at the state fair park:
(i) provide, sponsor, or arrange the events;
(ii) publicize and promote the events; and
(iii) secure funds to cover the cost of the exhibits from:
(A) private contributions;

(B) public appropriations;
(C) admission charges; and
(D) other lawful means;
(c) acquire and designate exposition sites;
(d) use generally accepted accounting principles in accounting for the authority's assets, liabilities, and operations;
(e) seek corporate sponsorships for the state fair park or for individual buildings or facilities on fair park land;
(f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Office of Tourism, and other entities to develop and promote expositions and the use of fair park land;
(g) develop and maintain a marketing program to promote expositions and the use of fair park land;
(h) in accordance with provisions of this chapter, operate and maintain state-owned buildings and facilities on fair park land, including the physical appearance and structural integrity of those buildings and facilities;
(i) prepare an economic development plan for the fair park land;
(j) hold an annual exhibition on fair park land that:
(i) is called the state fair or a similar name;
(ii) promotes and highlights agriculture throughout the state;
(iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the board's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of the state;
(iv) includes the award of premiums for the best specimens of the exhibited articles and animals;
(v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and
(vi) is arranged according to plans approved by the board;
(k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j); and
(l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection (4)(j) for the best specimens of exhibited articles and animals.
(5) In addition to the annual exhibition described in Subsection (4)(j), the authority may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of the state.
(6) The authority may:
(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;
(b)
(i) participate in the state's Risk Management Fund created under Section 63A-4-201 or any captive insurance company created by the risk manager; or
(ii) procure insurance against any loss in connection with the authority's property and other assets;
(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or the state;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the authority, subject to the conditions, if any, upon which the aid and contributions are made;
(e) enter into management agreements with any person or entity for the performance of the authority's functions or powers;
(f) establish accounts and procedures that are necessary to budget, receive, disburse, account for, and audit all funds received, appropriated, or generated;
(g) subject to Subsection (8), lease any of the state-owned buildings or facilities located on fair park land;
(h) sponsor events as approved by the board;
(i) subject to Subsection (11), acquire any interest in real property that the board considers necessary or advisable to further a purpose of the authority or facilitate the authority's fulfillment of a duty under this chapter;
(j) in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure, as those terms are defined in Section 11-42a-102; and
(k) enter into one or more agreements to develop the fair park land.

(7) The authority shall comply with:
(a)Title 51, Chapter 5, Funds Consolidation Act;
(b)Title 51, Chapter 7, State Money Management Act;
(c)Title 52, Chapter 4, Open and Public Meetings Act;
(d)Title 63G, Chapter 2, Government Records Access and Management Act;
(e) the provisions of Section 67-3-12;
(f)Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:
(i) entertainment provided at the state fair park;
(ii) judges for competitive exhibits; or
(iii) sponsorship of an event on fair park land; and
(g) the legislative approval requirements for capital development projects established in Section 63A-5b-404.

(8)
(a) Before the authority executes a lease described in Subsection (6)(g) with a term of 10 or more years, the authority shall:
(i) submit the proposed lease to the division for the division's approval or rejection; and
(ii) if the division approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).
(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the authority that the authority:
(i) execute the proposed lease, either as proposed or with changes recommended by the Executive Appropriations Committee; or
(ii) reject the proposed lease.

(9)
(a) Subject to Subsection (9)(b), a department, division, or other instrumentality of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.
(b) The division shall provide assistance and resources to the authority as the division director determines is appropriate.

(10) The authority may share authority revenue with a municipality in which the fair park land is located, as provided in an agreement between the authority and the municipality, to pay for municipal services provided by the municipality.
(11)
(a) As used in this Subsection (11), "new land" means land that, if acquired by the authority, would result in the authority having acquired over three acres of land more than the land described in Subsection 11-68-101(9)(a).
(b) In conjunction with the authority's acquisition of new land, the authority shall enter an agreement with the municipality in which the new land is located.
(c) To provide funds for the cost of increased municipal services that the municipality will provide to the new land, an agreement under Subsection (11)(b) shall:
(i) provide for:
(A) the payment of impact fees to the municipality for development activity on the new land; and
(B) the authority's sharing with the municipality tax revenue generated from the new land; and
(ii) be structured in a way that recognizes the needs of the authority and furthers mutual goals of the authority and the municipality.

Renumbered and Amended by Chapter 502, 2023 General Session

11-68-202 Operation of the state-owned buildings and facilities on fair park land -- New construction and modification of existing facilities -- Liability insurance -- Obligations of the authority.
(1) The authority shall:
(a) operate and maintain state-owned buildings and facilities on fair park land in accordance with the facility maintenance standards approved by the division;
(b) pay for all costs associated with operating and maintaining state-owned buildings and facilities on fair park land;
(c) obtain approval from the division before making any alteration or addition to the water system, heating system, plumbing system, air conditioning system, or electrical system of a state-owned building or facility on fair park land;
(d) keep the fair park land and all state-owned buildings and facilities on fair park land fully insured to protect against loss or damage by fire, vandalism, or malicious mischief;
(e) in accordance with Subsection (3), at the authority's expense, and for the mutual benefit of the division, maintain general public liability insurance in an amount equal to at least $1,000,000 through one or more companies that are:
(i) licensed to do business in the state;
(ii) selected by the authority; and
(iii) approved by the division and the Division of Risk Management;
(f) ensure that the division is an additional insured with primary coverage on each insurance policy that the authority obtains in accordance with this section;
(g) give the division notice at least 30 days before the day on which the authority cancels any insurance policy that the authority obtains in accordance with this section; and
(h) if any lien that is not invalid under Section 38-1a-103 is recorded or filed against the state fair park as a result of an act or omission of the authority, cause the lien to be satisfied or released within 10 days after the day on which the authority receives notice of the lien.
(2)
(a) As used in this Subsection (2):

(i) "Existing facility modification" means an alteration, repair, or improvement to an existing state-owned building or facility on fair park land.
(ii) "Major project" means new construction or an existing facility modification that costs, regardless of the funding source, over $100,000.
(iii) "Minor project" means new construction or an existing facility modification that costs, regardless of the funding source, $100,000 or less.
(iv) "New construction" means the design and construction of a new state-owned or privately owned building or facility on fair park land.
(b)
(i) The director of the division shall exercise direct supervision over a major project.
(ii) Notwithstanding Subsection (2)(b)(i), the director of the division may delegate control over a major project to the authority on a project-by-project basis.
(iii) With respect to a delegation of control under Subsection (2)(b)(ii), the director of the division may:
(A) impose terms and conditions on the delegation that the director considers necessary or advisable to protect the interests of the state; and
(B) revoke the delegation and assume control of the design, construction, or other aspect of a delegated project if the director considers the revocation and assumption of control to be necessary to protect the interests of the state.
(iv) If a major project over which the division exercises direct supervision includes the demolition of a building or other facility on fair park land, the division shall, at least 90 days before demolition work begins, notify the State Historic Preservation Office of the division's demolition plan.
(c) Subject to Subsection (2)(d), the authority may exercise direct supervision over a minor project.
(d) With respect to a minor project over which the authority exercises direct supervision, the authority shall:
(i) obtain the division's approval before commencing the new construction or existing facility modification;
(ii) obtain a building permit from the division before commencing the new construction or existing facility modification, if a building permit is required;
(iii) comply with the division's forms and contracts and the division's design, construction, alteration, repair, improvement, and code inspection standards;
(iv) notify the division before commencing the new construction or existing facility modification;
(v) coordinate with the division regarding the review of design plans and management of the new construction or existing facility modification project; and
(vi) at least 90 days before the beginning of any demolition of a building or facility on the fair park land, notify the division and the State Historic Preservation Office of the proposed demolition.
(3) The general public liability insurance described in Subsection (1)(e) shall:
(a) insure against any claim for personal injury, death, or property damage that occurs on fair park land; and
(b) be a blanket policy that covers all activities of the authority.
(4) Upon 24 hours notice to the board, the division may enter the fair park land to inspect any facility on fair park land and make any repairs that the division determines necessary.
(5)
(a) A debt or obligation contracted by the authority is a debt or obligation of the authority and not of the state.

(b) The state is not liable and assumes no responsibility for any debt or obligation of the authority.

Renumbered and Amended by Chapter 502, 2023 General Session

Part 3
Authority Governance

11-68-301 Board -- Membership -- Term -- Quorum -- Vacancies -- Duties.

(1) The authority is governed by a board.
(2) The board is composed of:
(a) the director of the Division of Facilities Construction and Management or the director's designee;
(b) the commissioner of agriculture and food or the commissioner's designee;
(c) two members, appointed by the president of the Senate:
(i) who have business related experience; and
(ii) of whom only one may be a legislator, in accordance with Subsection (3)(e);
(d) two members, appointed by the speaker of the House:
(i) who have business related experience; and
(ii) of whom only one may be a legislator, in accordance with Subsection (3)(e);
(e) five members, of whom only one may be a legislator, in accordance with Subsection (3)(e), appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies as follows:
(i) two members who represent agricultural interests;
(ii) two members who have business related experience; and
(iii) one member who is recommended by the Utah Farm Bureau Federation;
(f) one member, appointed by the mayor of Salt Lake City with the advice and consent of the Senate, who is a resident of the neighborhood located adjacent to the fair park land;
(g) a representative of Salt Lake County, if Salt Lake County is party to an executed lease agreement with the authority; and
(h) a representative of the Days of '47 Rodeo.
(3)
(a)
(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(c), (d), (e), or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.
(ii) In making appointments to the board, the president of the Senate, the speaker of the House, the governor, and the mayor of Salt Lake City shall ensure that the terms of approximately 1/4 of the appointed board members expire each year.
(b) Except as provided in Subsection (3)(c), appointed board members serve until their successors are appointed and qualified.
(c)
(i) If an appointed board member is absent from three consecutive board meetings without excuse, that member's appointment is terminated, the position is vacant, and the individual who appointed the board member shall appoint a replacement.

(ii) The president of the Senate, the speaker of the House, the governor, or the mayor of Salt Lake City, as applicable, may remove an appointed member of the board at will.
(d) The president of the Senate, the speaker of the House, the governor, or the mayor of Salt Lake City, as appropriate, shall fill any vacancy that occurs on the board for any reason by appointing an individual in accordance with the procedures described in this section for the unexpired term of the vacated member.
(e) No more than a combined total of two legislators may be appointed under Subsections (2)(c), (d), and (e).
(4) The governor shall select the board's chair.
(5) A majority of the members of the board is a quorum for the transaction of business.
(6) The board may elect a vice chair and any other board offices.
(7) The board may create one or more subcommittees to advise the board on any issue related to the state fair park.
(8) A member described in Subsection (2)(e) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.
(9) The board shall create and may, as the board considers appropriate, modify:
(a) a business plan for the authority;
(b) a financial plan for the authority that projects self-sufficiency for the authority within two years; and
(c) a master plan for the fair park land.

Renumbered and Amended by Chapter 502, 2023 General Session

11-68-302 Executive director.
(1)
(a) The board shall:
(i) hire an executive director for the authority as provided in this Subsection (1)(a);
(ii) conduct a national search to find applicants for the position of executive director; and
(iii) establish the salary, benefits, and other compensation of the executive director.
(b) The board may appoint an interim director while searching for a permanent executive director.
(c) The executive director serves at the pleasure of the board and may be terminated by the board at will.
(d) The executive director is an employee of the authority.
(e) The executive director may not be a member of the board.
(2) The executive director shall:
(a) act as the executive officer of the board and the authority;
(b) administer, manage, and direct the affairs and activities of the authority in accordance with the policies and under the control and direction of the board;
(c) keep the board, the governor, the Legislature, and its agencies, and other affected officers, associations, and groups informed about the operations of the authority;
(d) recommend to the board any necessary or desirable changes in the statutes governing the authority;
(e) recommend to the board an annual administrative budget covering the operations of the authority and, upon approval, submit the budget to the governor and the Legislature for their examination and approval;
(f) after approval, direct and control the subsequent expenditures of the budget;

(g) employ, within the limitations of the budget, staff personnel and consultants to accomplish the purpose of the authority, and establish the qualifications, duties, and compensation of the staff personnel and consultants;
(h) keep in convenient form all records and accounts of the authority, including those necessary for the administration of the fair park land;
(i) approve all accounts for:
(i) salaries;
(ii) allowable expenses of the authority and its employees and consultants; and
(iii) expenses incidental to the operation of the authority; and
(j) perform other duties as directed by the board.

Renumbered and Amended by Chapter 502, 2023 General Session

Part 4
Authority Revenues

11-68-401 Distribution of sales tax revenue to authority.
(1) As used in this section:
(a) "Applicable sales tax revenue" means all revenue collected under Title 59, Chapter 12, Sales and Use Tax Act, on transactions that occur within a qualified hotel, except:
(i) revenue distributed under Subsection 59-12-205(2)(a)(ii)(A); and
(ii) revenue collected under Title 59, Chapter 12, Part 3A, Municipality Transient Room Tax.
(b) "Commission" means the State Tax Commission.
(c) "Qualified hotel" means a hotel for which the authority provides notice to the commission under Subsection (2).
(2) Upon the division's issuance of a certificate of occupancy for a hotel located on fair park land, the authority shall provide written notification to the commission of the existence, location, and imminent operation of the hotel.
(3) Notwithstanding any provision of Title 59, Chapter 12, Sales and Use Tax Act, the commission shall distribute to the authority all applicable sales tax revenue, beginning the next quarter that begins more than 60 days after the notification under Subsection (2).

Enacted by Chapter 502, 2023 General Session

11-68-402 Privilege tax -- Personal property tax revenue -- Deposit into Utah State Fair Fund.
(1) The possession or beneficial use of property on fair park land is subject to Title 59, Chapter 4, Privilege Tax.
(2)
(a) As provided in Subsection (2)(b), the authority shall be paid:
(i) all revenue from a privilege tax under Subsection (1); and
(ii) all revenue from a property tax on personal property located on property that is subject to a privilege tax under Subsection (1).
(b) The treasurer of the county in which the fair park land is located shall, in the manner and at the time provided in Section 59-2-1365, pay and distribute to the authority the revenue described in Subsection (2)(a).

(c) The authority shall deposit all revenue collected under this Subsection (2) into the Utah State Fair Fund created in Section 11-68-403.

Renumbered and Amended by Chapter 502, 2023 General Session

11-68-403 Enterprise fund -- Creation -- Revenue -- Uses.

(1)

(a) There is created an enterprise fund entitled the Utah State Fair Fund.

(b) The executive director shall administer the fund under the direction of the board.

(2) The fund consists of money generated from the following revenue sources:

(a) lease payments from person or entities leasing any part of the fair park land or any other facilities owned by the authority;

(b) revenue received from any expositions or other events wholly or partially sponsored by the authority;

(c) aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or the state;

(d) appropriations made to the fund by the Legislature;

(e) revenue received under a privilege tax or a tax on personal property; and

(f) any other income obtained by the authority.

(3)

(a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director may use fund money to operate, maintain, and support the Utah State Fair, the fair park land, and other expositions sponsored by the authority.

Renumbered and Amended by Chapter 502, 2023 General Session

Part 5
Authority Bonds

11-68-501 Authority may issue bonds -- Resolution authorizing issuance of authority bonds -- Characteristics of bonds.

(1) The authority may issue bonds, as provided in this part, to fund development consistent with the master plan adopted under Subsection 11-68-301(9)(c).

(2) The authority may not issue bonds under this part unless the board first:

(a) adopts a parameters resolution that sets forth:

(i) the maximum:

(A) amount of the bonds;

(B) term; and

(C) interest rate; and

(ii) the expected security for the bonds; and

(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.

(3)

(a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.
(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing the bonds' issuance or the trust indenture under which the bonds are issued.
(4) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:
(a) in a newspaper having general circulation in the authority's boundaries; and
(b) as required in Section 45-1-101.
(5) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).
(6) For a period of 30 days after the publication, any person in interest may contest:
(a) the legality of the resolution or proceeding;
(b) any bonds that may be authorized by the resolution or proceeding; or
(c) any provisions made for the security and payment of the bonds.
(7)
(a) A person may contest the matters set forth in Subsection (6) by filing a verified written complaint, within 30 days after the publication under Subsection (5), in the district court of the county in which the person resides.
(b) A person may not contest the matters set forth in Subsection (6), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (7)(a).
(8) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:
(a) the Executive Appropriations Committee; and
(b) the State Finance Review Commission created in Section 63C-25-201.

Enacted by Chapter 502, 2023 General Session

11-68-502 Sources from which bonds may be made payable -- Authority powers regarding bonds.
(1) The principal and interest on bonds issued by the authority may be made payable from:
(a) the income and revenues of the development projects financed with the proceeds of the bonds;
(b) the income and revenues of certain designated development projects whether or not they were financed in whole or in part with the proceeds of the bonds;
(c) the income, revenues, proceeds, and funds the authority derives from or holds in connection with the authority undertaking and carrying out development;
(d) privilege tax and property tax revenue under Section 11-68-402;
(e) revenue from a special event tax under Title 59, Chapter 12, Part 23, Fair Park Special Event Tax;
(f) authority revenues generally;

(g) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the development; or
(h) funds derived from any combination of the sources listed in Subsections (1)(a) through (g).
(2)
(a) In connection with the issuance of authority bonds, the authority may:
(i) pledge all or any part of the authority's gross or net rents, fees, or revenues to which the authority's right then exists or may thereafter come into existence; and
(ii) make the covenants and take the action that may be necessary, convenient, or desirable to secure the authority's bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.
(b) The authority may not use all or any portion of the fair park land as collateral for any bonds or encumber the fair park land by mortgage, deed of trust, or otherwise as collateral for any bonds.

Enacted by Chapter 502, 2023 General Session

11-68-503 Authority to purchase agency bonds.
(1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by an authority under this part with funds owned or controlled by the purchaser.
(2) Nothing in this section may be construed to relieve a purchaser of authority bonds of any duty to exercise reasonable care in selecting securities.

Enacted by Chapter 502, 2023 General Session

11-68-504 Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.
(1) A member of the board or other person executing an authority bond is not liable personally on the bond.
(2)
(a) A bond issued by the authority is not an obligation or liability of the state or any of the state's political subdivisions, except the authority, and does not constitute a charge against the general credit or taxing powers of the state or other political subdivisions of the state.
(b) A bond issued by the authority is not payable out of any funds other than those of the authority.
(c) The state and any political subdivision of the state, other than the authority, may not be liable on a bond issued by the authority.
(d) A bond issued by the authority does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.
(3) A bond issued by the authority under this part is fully negotiable.

Enacted by Chapter 502, 2023 General Session

11-68-505 Obligee rights -- Board may confer other rights.
(1) In addition to all other rights that are conferred on an obligee of a bond issued by the authority under this part and subject to contractual restrictions binding on the obligee, an obligee may:

(a) by mandamus, suit, action, or other proceeding, compel the authority and the authority's board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the authority with or for the benefit of the obligee, and require the authority to carry out the covenants and agreements of the authority and to fulfill all duties imposed on the authority by this part; and
(b) by suit, action, or proceeding in equity, enjoin any acts or things that may be unlawful or violate the rights of the obligee.

(2) In a board resolution authorizing the issuance of bonds or in a trust indenture, lease, or other contract, the board may confer upon an obligee holding or representing a specified amount in bonds, certain rights to receive the income, revenues, proceeds, funds, fees, rents, grants, or taxes.

Enacted by Chapter 502, 2023 General Session

11-68-506 Bonds exempt from taxes -- Authority may purchase its own bonds.

(1) A bond issued by the authority under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from the bond, exempt from all state taxes except the corporate franchise tax.
(2) The authority may purchase the authority's own bonds at a price that the board determines.
(3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the authority on the authority's income, revenues, proceeds, funds, fees, rents, grants, or taxes.

Enacted by Chapter 502, 2023 General Session

Part 6
Authority Reporting

11-68-601 Financial reports -- Audit -- Surety bonds.

(1)
(a) The authority shall, following the close of each fiscal year, submit an annual report of the authority's activities for the preceding year to the governor and the Legislature.
(b) The report shall contain:
(i) a complete operating report detailing the authority's activities; and
(ii) financial statements of the authority audited by a certified public accountant according to generally accepted auditing standards.

(2)
(a) At least once a year, the state auditor shall:
(i) audit the books and accounts of the authority; or
(ii) contract with a nationally recognized independent certified public accountant to conduct the audit and review the audit report when the audit is completed.
(b) The authority shall reimburse the state auditor for the costs of the audit.
(c) If the audit is conducted by an independent auditor, the independent auditor shall submit a copy of the audit to the state auditor for review within 90 days after the end of the fiscal year covered by the audit.

(3)

(a) The authority shall maintain a surety bond in the penal sum of $25,000 for each member of the board.
(b) The authority shall maintain a surety bond in the penal sum of $50,000 for the executive director.
(c) The authority shall ensure that each surety bond is:
(i) conditioned upon the faithful performance of the duties of office to which the surety bond attaches;
(ii) issued by a surety company authorized to transact business in the state as a surety; and
(iii) filed in the office of the State Treasurer.
(d) The authority shall pay the cost of the surety bonds.

Renumbered and Amended by Chapter 502, 2023 General Session

Chapter 69
Cosmetology Practices Regulation

11-69-101 Business license exemption for certain uncompensated cosmetology practices.
(1) As used in this section, "local government entity" means a county or municipality.
(2) A local government entity may not:
(a) require a person to obtain a business license or permit from the local government entity to engage in a practice described in Subsection 58-11a-304(5); or
(b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by requiring the person to engage in the practice at a specific location or at a particular type of facility or location.

Enacted by Chapter 90, 2023 General Session