

HB0251S01 compared with HB0251

~~deleted text~~ shows text that was in HB0251 but was deleted in HB0251S01.

inserted text shows text that was not in HB0251 but was inserted into HB0251S01.

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Representative Johnny Anderson proposes the following substitute bill:

AMENDMENTS TO THE INTERLOCAL ACT

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Johnny Anderson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to interlocal entities and joint or cooperative undertakings.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes a Utah public agency to exercise, with certain limitations, a power, privilege, or authority with any other Utah public agency;
- ▶ provides that certain provisions govern an interlocal entity;
- ▶ authorizes an interlocal entity to create a local disaster recovery fund;
- ▶ provides requirements for agreements for a joint or cooperative undertaking;
- ▶ clarifies applicable law to a bond issued by an interlocal entity;

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- ▶ provides that an interlocal entity may pledge certain revenues for a bond;
- ▶ amends provisions authorizing an employee performing services under agreements;
- ▶ requires that an interlocal entity establish a personnel system;
- ▶ requires a governing board to adopt rules or policies for public procurement;
- ▶ exempts a taxed interlocal entity from certain provisions;
- ▶ enacts language related to the governance of an interlocal entity or joint or cooperative undertaking, including:
 - compensation of a member of the governing authority; and
 - quorum and meeting requirements;
- ▶ enacts language related to fiscal procedures for interlocal entities, including uniform accounting requirements, budgetary procedures, appropriations, emergency expenditures, interfund loans, operating and capital budgets, audit requirements, and fees; and
- ▶ makes clarifying and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-13-103, as last amended by Laws of Utah 2012, Chapters 212 and 345

11-13-201, as renumbered and amended by Laws of Utah 2002, Chapter 286

11-13-202.5, as enacted by Laws of Utah 2003, Chapter 38

11-13-203, as last amended by Laws of Utah 2009, Chapter 350

11-13-204 (Effective 05/12/15), as last amended by Laws of Utah 2014, Chapter 115

11-13-206, as renumbered and amended by Laws of Utah 2002, Chapter 286

11-13-207, as renumbered and amended by Laws of Utah 2002, Chapter 286

11-13-208, as renumbered and amended by Laws of Utah 2002, Chapter 286

11-13-211, as renumbered and amended by Laws of Utah 2002, Chapter 286

11-13-217, as renumbered and amended by Laws of Utah 2002, Chapter 286

11-13-218, as last amended by Laws of Utah 2013, Chapter 246

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11-13-219, as last amended by Laws of Utah 2009, Chapter 388

11-13-222, as last amended by Laws of Utah 2008, Chapter 382

11-13-224, as enacted by Laws of Utah 2013, Chapter 311

11-13-315 (Effective 05/12/15), as last amended by Laws of Utah 2014, Chapters 115, 189, 196, and 264

52-4-103, as last amended by Laws of Utah 2014, Chapter 434

53-2a-605, as renumbered and amended by Laws of Utah 2013, Chapter 295

63G-2-103, as last amended by Laws of Utah 2014, Chapter 90

ENACTS:

11-13-218.1, Utah Code Annotated 1953

11-13-225, Utah Code Annotated 1953

11-13-226, Utah Code Annotated 1953

11-13-401, Utah Code Annotated 1953

11-13-402, Utah Code Annotated 1953

11-13-403, Utah Code Annotated 1953

11-13-404, Utah Code Annotated 1953

11-13-501, Utah Code Annotated 1953

11-13-502, Utah Code Annotated 1953

11-13-503, Utah Code Annotated 1953

11-13-504, Utah Code Annotated 1953

11-13-505, Utah Code Annotated 1953

11-13-506, Utah Code Annotated 1953

11-13-507, Utah Code Annotated 1953

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11-13-515, Utah Code Annotated 1953

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11-13-516, Utah Code Annotated 1953
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11-13-531, Utah Code Annotated 1953
11-13-532, Utah Code Annotated 1953

~~{ 11-13-533, Utah Code Annotated 1953~~

}REPEALS:

11-13-223 (Superseded 05/12/15), as last amended by Laws of Utah 2007, Chapter 249

11-13-223 (Effective 05/12/15), as last amended by Laws of Utah 2014, Chapter 115

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **11-13-103** is amended to read:

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

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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, local 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 [(12)] (17), 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;

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- (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) "Governing authority" means a governing board ~~and~~ or joint administrator.

(10) (a) "Governing board" means the body established in ~~accordance with Section 11-13-402~~ reliance on the authority provided under Subsection 11-13-206(1)(b) to govern an interlocal entity.

(b) "Governing board" does not include a board as defined in Subsection (2).

~~(9)~~ (11) "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.

(12) "Joint administrator" means an administrator or joint board described in Section 11-13-207 to administer a joint or cooperative undertaking.

(13) "Joint or cooperative undertaking" means an undertaking ~~by more than one public agency who have entered into an agreement for a purpose~~ described in ~~Subsection 11-13-202(1)~~ Section 11-13-207 that is not conducted by an interlocal entity.

(14) "Member" means a public agency that, with another public agency, creates an interlocal entity under Section 11-13-203.

~~(10)~~ (15) "Out-of-state public agency" means a public agency as defined in Subsection ~~(13)~~ (18)(c), (d), or (e).

~~(11)~~ (16) (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 or fuel transportation facilities and water facilities owned by that Utah interlocal entity or electric interlocal entity and required for the generation and transmission facility.

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

(i) facilities that provide additional project capacity;

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- (ii) facilities that provide replacement project capacity; and
- (iii) additional generating, transmission, fuel, fuel transportation, water, or other facilities added to a project.

~~[(12)]~~ (17) "Project entity" means a Utah interlocal entity or an electric interlocal entity that owns a project.

~~[(13)]~~ (18) "Public agency" means:

- (a) a city, town, county, school district, local 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; ~~[and]~~ 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.

~~[(14)]~~ (19) "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.

~~[(15)]~~ (20) "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 constructed, reconstructed, converted, repowered, or installed in a location adjacent to or in proximity to or interconnected with the site of a project, regardless of whether the capacity replacing existing capacity is less than or exceeds the generating or transmission capacity of the project prior to installation of the capacity replacing existing capacity.

~~[(16)]~~ (21) "Utah interlocal entity":

- (a) means an interlocal entity described in Subsection 11-13-203(2); and

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(b) includes a separate legal or administrative entity created under Laws of Utah 1977, Chapter 47, Section 3, as amended.

~~[(17)]~~ (22) "Utah public agency" means a public agency under Subsection ~~[(13)]~~ (18)(a) or (b).

Section 2. Section **11-13-201** is amended to read:

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.

Section 3. Section **11-13-202.5** is amended to read:

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:

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- (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~~[(13)]~~(18)(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.

Section 4. Section **11-13-203** is amended to read:

11-13-203. Interlocal entities -- Agreement to approve the creation of an interlocal entity -- Utah interlocal entity may become electric interlocal entity or energy services interlocal 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~~ {undertaking}, 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

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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{}~~~~{undertaking}~~ 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{}~~~~{undertaking}~~ 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{}~~~~{undertaking}~~ 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 ~~[body]~~ 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.

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Section 5. Section 11-13-204 (Effective 05/12/15) is amended to read:

11-13-204 (Effective 05/12/15). 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; ~~and~~

(I) sell or contract for the sale of the services, output, product, or other benefits

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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.

~~[(c)(i)(A) Except as provided in Subsection (1)(c)(i)(B), an interlocal entity is subject to each state law that governs each public agency that is a member of the entity to the extent that the law governs an activity or action of the public agency in which the interlocal entity is also engaged.]~~

~~[(B) Subsection (1)(c)(i)(A) does not apply if an interlocal entity is expressly exempt from the law.]~~

~~[(C) A law described in Subsection (1)(c)(i)(A) does not include a local ordinance or other local law.]~~

~~[(ii) If a state law that governs a public agency that is a member of the interlocal entity conflicts with a state law that governs another member entity, the interlocal entity shall choose and comply with one of the conflicting state laws.]~~

~~[(iii)(A) If a public agency that is a member of the interlocal entity is an institution of higher education, the interlocal entity shall adopt the policies of the Board of Regents.]~~

~~[(B) If a policy of the Board of Regents adopted by an interlocal entity in accordance with Subsection (1)(c)(iii)(A) conflicts with a state law that governs a public agency that is a member entity, the state law governs.]~~

(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:

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- (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) ~~The governing body {} of each party to the agreement to approve the creation {} of { a member of } an interlocal entity, including an electric interlocal entity and an~~

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~~energy services interlocal entity.~~ 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.

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(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

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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 [~~body~~] board of the energy services interlocal entity;

(v) before implementation of any rate increase, the governing [~~body~~] board of the energy services interlocal entity shall first hold a public meeting to take public comment on the proposed increase, after providing at least 20 days and not more than 60 days' advance written notice to its customers on the ordinary billing and on the Utah Public Notice Website, created by Section 63F-1-701; 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

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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.

Section 6. Section **11-13-206** is amended to read:

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

undertaking action.

(1) Each agreement under Section 11-13-202, 11-13-203, or 11-13-205 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 ~~body~~ board are to be appointed or selected;

(c) its purpose or purposes;

(d) the manner of financing the joint or cooperative ~~undertaking~~ action and of

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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; [~~and~~]

(f) the process, conditions, and terms for withdrawal of a participating public agency from the interlocal entity or the joint ~~fund~~ or cooperative undertaking; and

[~~(f)~~] (g) 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 [~~body~~] board with a majority of the voting power.

Section 7. Section **11-13-207** is amended to read:

11-13-207. Additional requirements for agreement not establishing interlocal entity.

(1) If an agreement under Section 11-13-202 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:

[~~(1)~~] (a) the joint or cooperative undertaking to be administered by:

[~~(a)~~] (i) an administrator; or

[~~(b)~~] (ii) a joint board with representation from the public agencies that are parties to the agreement; [~~and~~]

[~~(2)~~] (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.

Section 8. Section **11-13-208** is amended to read:

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

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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 [~~board~~] 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.

Section 9. Section **11-13-211** is amended to read:

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 [~~an administrative joint board~~] a joint or cooperative undertaking is established or an interlocal entity is created [~~to operate the joint or cooperative undertaking~~] may:

- (1) appropriate funds to the [~~administrative joint board~~] joint or cooperative undertaking or interlocal entity;
- (2) sell, lease, give, or otherwise supply tangible and intangible property to the [~~administrative joint board~~] joint or cooperative undertaking or interlocal entity; and
- (3) provide personnel or services for the [~~administrative joint board~~] joint or cooperative undertaking or interlocal entity as may be within its legal power to furnish.

Section 10. Section **11-13-217** is amended to read:

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 [~~board or commission~~] 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.

Section 11. Section **11-13-218** is amended to read:

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

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(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 or a renewable energy system 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) [~~Such bonds~~] The bonds or notes described in [this](#) Subsection (2)(a) are not a debt of any public agency that is a party to the agreement.

(3) The governing [~~body, as defined in Section 11-13-219, of an interlocal entity~~] board may, by resolution, delegate to one or more officers of the interlocal entity or to a committee of designated members of the governing [~~body~~] 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 Chapter 14, Local Government Bonding Act, or Chapter 27, Utah Refunding Bond Act, as applicable.

(b) An interlocal entity is a public body as defined in Section 11-30-2.

Section 12. Section **11-13-218.1** is enacted to read:

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

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(1) In addition to any assignment, pledge, or conveyance made in accordance with Subsection 11-13-204(1)(a)(i)(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 ~~fits~~the entity's services and from the operation of ~~fits~~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.

Section 13. Section **11-13-219** is amended to read:

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; ~~and~~ or

(ii) the governing ~~body~~ authority of an interlocal entity ~~created~~ established under this chapter.

~~(c)~~ (c) "Notice of agreement" means the notice authorized by Subsection (3)(c).

~~(d)~~ (d) "Notice of bonds" means the notice authorized by Subsection (3)(d).

(e) "Official newspaper" means the newspaper selected by a governing body under Subsection (4)(b) to publish its enactments.

(2) Any enactment taken or made under the authority of this chapter is not subject to referendum.

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(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) If there is more than one newspaper of general circulation, or more than one newspaper, published within the boundaries of the governing body, the governing body may designate one of those newspapers as the official newspaper for all publications made under this section.

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(c) (i) (A) The governing body shall publish the enactment, notice of bonds, or notice of agreement in:

(I) the official newspaper;

(II) the newspaper published in the municipality in which the principal office of the governmental entity is located; or

(III) if no newspaper is published in that municipality, in a newspaper having general circulation in the municipality; and

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

(ii) The governing body may publish the enactment, notice of bonds, or notice of agreement:

(A) (I) in a newspaper of general circulation; or

(II) in a newspaper that is published within the boundaries of any public agency that is a party to the enactment or agreement; and

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

(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 publication 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.

Section 14. Section **11-13-222** is amended to read:

11-13-222. Employees performing services under agreements.

(1) [~~Each officer and~~] An employee performing services for two or more public agencies under an agreement under this chapter shall be considered to be:

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

(b) an [~~officer or~~] 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:

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- (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.

Section 15. Section **11-13-224** is amended to read:

11-13-224. Utah interlocal entity for alternative fuel vehicles and facilities.

(1) As used in this section, "commission" means the Public Service Commission of Utah, established in Section 54-1-1.

(2) The governing ~~[body]~~ board of a Utah interlocal entity created to facilitate the conversion to alternative fuel vehicles or to facilitate the construction, operation, and maintenance of facilities for alternative fuel vehicles, or both, shall consist of:

- (a) an individual from the executive branch of state government, appointed by the governor;
- (b) a member of the Senate, appointed by the president of the Senate;
- (c) a member of the House of Representatives, appointed by the speaker of the House of Representatives;
- (d) an individual from the Utah Association of Counties, appointed by the president of the Senate;
- (e) an individual from the Utah League of Cities and Towns, appointed by the speaker of the House of Representatives;
- (f) an individual employed by a school district in the state, appointed by the governor;
- (g) an individual appointed by the public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act, with the largest budget of all public transit districts in the state;
- (h) an individual employed by a gas corporation in the state, appointed by the

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governor; and

(i) a representative of the Utah Petroleum Marketers and Retailers Association, appointed by the governor.

(3) A Utah interlocal entity described in Subsection (2):

(a) may contribute toward the funding required for the construction, operation, and maintenance of facilities for alternative fuel vehicles that are used by or benefit the interlocal entity; and

(b) shall participate with the commission in proceedings the commission conducts under Section 54-1-13.

Section 16. Section **11-13-225** is enacted to read:

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.

Section 17. Section **11-13-226** is enacted to read:

11-13-226. Competitive procurement.

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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.

Section 18. Section **11-13-315 (Effective 05/12/15)** is amended to read:

11-13-315 (Effective 05/12/15). Taxed interlocal entity.

(1) As used in this section:

(a) "Asset" means funds, money, an account, real or personal property, or personnel.

(b) "Public asset" means:

(i) an asset used by a public entity;

(ii) tax revenue;

(iii) state funds; or

(iv) public funds.

(c) (i) "Taxed interlocal entity" means a project entity that:

(A) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;

(B) 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 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; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(ii) "Taxed interlocal entity" includes an interlocal entity that:

(A) was created before 1981 for the purpose of providing power supply at wholesale to its members;

(B) 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 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; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(d) (i) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit,

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administer, receive, expend, appropriate, disburse, or have custody.

(ii) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection (1)(d)(i), individually.

(2) Notwithstanding any other provision of law, the use of an asset by a taxed interlocal entity does not constitute the use of a public asset.

(3) Notwithstanding any other provision of law, a taxed interlocal entity's use of an asset that was a public asset prior to the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset.

(4) Notwithstanding any other provision of law, an official of a project entity is not a public treasurer.

(5) Notwithstanding any other provision of law, a taxed interlocal entity's governing body, as described in Section 11-13-206, shall determine and direct the use of an asset by the taxed interlocal entity.

(6) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(7) (a) A taxed interlocal entity is not a participating local entity as defined in Section 63A-3-401.

(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 the taxed interlocal entity's balance sheet 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; 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 Subsections (7)(b)(i) and(ii):

(i) in a manner described in Subsection 63A-3-405(3); and

(ii) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing body the auditor's report with respect to the

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financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (7)(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 (7)(b)(i) or (ii) does not constitute public financial information as defined in Section 63A-3-401.

(8) (a) A taxed interlocal entity's governing body 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.

(9) (a) [A] Notwithstanding any other provision of law, a taxed interlocal entity is not subject to the following provisions [~~of Subsection~~]:

(i) Part 4, Governance;

(ii) Part 5, Fiscal Procedures for Interlocal Entities;

~~(iii)~~ Subsections 11-13-204(1)(a)(i) or [~~(c)~~]; (ii)(J);

~~(iii)~~iv) Subsection 11-13-206(1)(f);

~~(iii)~~v) Subsection 11-13-218(5)(a);

~~(iv)~~vi) Section 11-13-225;

~~(v)~~vii) Section 11-13-226; or

~~(vi)~~viii) Section 53-2a-605.

(b) In addition to the powers provided 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.

(c) 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.

Section 19. Section **11-13-401** is enacted to read:

Part 4. Governance

11-13-401. Application.

(1) Except as provided in Subsection (2), and notwithstanding any other provision of

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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 11-13-315; or

(b) a project entity.

Section 20. Section **11-13-402** is enacted to read:

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 ~~undertaking~~ 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

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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.

Section 21. Section **11-13-403** is enacted to read:

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

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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.

Section 22. Section **11-13-404** is enacted to read:

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;

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(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.

Section 23. Section **11-13-501** is enacted to read:

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.

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(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 general fund" means the general fund of an interlocal entity.

(19) "Internal service funds" has the meaning provided in generally accepted accounting principles.

(20) "Last completed fiscal year" means the fiscal year immediately preceding the current fiscal year.

(21) "Proprietary fund" means enterprise funds and the internal service funds of an interlocal entity.

(22) "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.

(23) "Retained earnings" has the meaning provided in generally accepted accounting principles.

(24) "Special fund" means an interlocal entity fund other than the interlocal entity general fund.

Section 24. Section **11-13-502** is enacted to read:

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 11-13-315.

(2) ~~Notwithstanding~~ **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

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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.

Section 25. Section **11-13-503** is enacted to read:

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.

Section 26. Section **11-13-504** is enacted to read:

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.

Section 27. Section **11-13-505** is enacted to read:

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.

Section 28. Section **11-13-506** is enacted to read:

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

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principles:

(e) each proprietary fund in accordance with Section ~~{11-13-525}~~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).

Section 29. Section **11-13-507** is enacted to read:

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.

Section 30. Section **11-13-508** is enacted to read:

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;

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(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.

Section 31. Section **11-13-509** is enacted to read:

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) or (5), order that notice of the hearing:

(i) be published, at least seven days before the day of the hearing, in at least one issue of a newspaper of general circulation in a county in which the interlocal entity provides service to the public or in which its members are located, if such a newspaper is generally circulated in the county or counties; and

(ii) be published at least seven days before the day of the hearing on the Utah Public Notice Website created in Section 63F-1-701.

(2) If the budget hearing is held in conjunction with a tax increase hearing, the notice

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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), (2), or (5) is prima face evidence that notice was properly given.

(4) If a notice required under Subsection (1)(b), (2), or (5) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

(5) A governing board of an interlocal entity with an annual operating budget of less than \$250,000 may satisfy the notice requirements in Subsection (1)(b) by:

(a) mailing a written notice, postage prepaid, to each voter in an interlocal entity; and

(b) posting the notice in three public places within the interlocal entity's service area.

Section 32. Section **11-13-510** is enacted to read:

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.

Section 33. Section **11-13-511** is enacted to read:

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.

Section 34. Section **11-13-512** is enacted to read:

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

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(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 ~~11-13-522~~ 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 ~~11-13-522~~ 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) 25% 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) 50% 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

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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.

Section 35. Section **11-13-513** is enacted to read:

11-13-513. Appropriations not to exceed estimated expendable revenue -- Determination of 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) An interlocal entity determining the estimated expendable revenue of the interlocal entity general fund for the budget year shall include as an appropriation from the fund balance that portion of the fund balance at the close of the last completed fiscal year, not previously included in the budget of the current year, that exceeds the amount permitted in Section 11-13-512.

(3) (a) An interlocal entity shall include in a fund budget an appropriation for an existing deficit created in accordance with Section ~~{11-13-522}~~ 11-13-521 as of the close of the current year and not previously included in the current year budget, to the extent of at least 5% of the total revenue in the current year.

(b) If the total amount of the deficit created ~~{under}~~ in accordance with Section ~~{11-13-522}~~ 11-13-521 is less than 5% of the total revenue in the current year, the interlocal entity shall include in the fund budget an appropriation for the entire amount of the deficit.

(c) An interlocal entity shall include in a fund budget appropriation for the entire amount of a deficit in the current year resulting from expenditures other than the expenditures allowed in Section ~~{11-13-522}~~ 11-13-521 to the extent that the deficit had not been included

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in the current year budget.

Section 36. Section **11-13-514** is enacted to read:

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.

Section 37. Section **11-13-515** is enacted to read:

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.

Section 38. Section **11-13-516** is enacted to read:

11-13-516. ~~Property tax levy -- Amount in budget as basis for determining property tax levy.~~

~~From the effective date of the budget or of an amendment enacted prior to the date on which property taxes are levied, the amount stated as the amount of estimated revenue from property taxes shall constitute the basis for determining the property tax levy to be set by the governing board for the corresponding tax year, subject to the applicable limitations imposed by law.~~ **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.

Section 39. Section **11-13-517** is enacted to read:

11-13-517. ~~Purchasing procedures~~ Expenditures or encumbrances in excess of appropriations prohibited.

An interlocal entity ~~shall~~ may not make or incur 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~~ encumbrance in excess of

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total appropriations in the budget as adopted or as subsequently amended, except as provided in Section 11-13-521.

Section 40. Section ~~11-13-518~~ is enacted to read:

~~11-13-518.~~ ~~{ Expenditures or encumbrances in excess }~~ Transfer of ~~{ appropriations prohibited }~~ appropriation balance between accounts in same fund.
~~{ An }~~ (1) The governing board of 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 11-13-522.~~

~~Section 41. Section 11-13-519 is enacted to read:~~

~~11-13-519. 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.

Section ~~{42}~~ 41. Section ~~{11-13-520}~~ 11-13-519 is enacted to read:

~~{11-13-520}~~ 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.

Section ~~{43}~~ 42. Section ~~{11-13-521}~~ 11-13-520 is enacted to read:

~~{11-13-521}~~ 11-13-520. Amendment and increase of individual fund budgets.

(1) After holding the public hearing required under Section ~~{11-13-520}~~ 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.

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(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.

Section ~~{44}~~43. Section ~~{11-13-522}~~11-13-521 is enacted to read:

~~{11-13-522}~~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.

Section ~~{45}~~44. Section ~~{11-13-523}~~11-13-522 is enacted to read:

~~{11-13-523}~~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.

Section ~~{46}~~45. Section ~~{11-13-524}~~11-13-523 is enacted to read:

~~{11-13-524}~~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

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(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

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(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.

Section 46. Section 11-13-524 is enacted to read:

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

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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.

Section 47. Section **11-13-525** is enacted to read:

11-13-525. 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.

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~~(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} **Increase in appropriations for** 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} **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{, 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} **at** 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, 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~~

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- ~~_____ (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 if written notice of the time, place, and purpose of the meeting has been mailed or delivered to all members of 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 11-13-526.~~~~
- ~~_____ (4) An interlocal entity shall maintain a proprietary fund or other required special fund in compliance with Sections 11-13-503 through 11-13-505, 11-13-517, 11-13-519, and 11-13-527 through 11-13-533 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.~~

Section 48. Section **11-13-526** is enacted to read:

~~{ _____ **11-13-526. Increase in appropriations for operating and capital budget fund** =~~
Notice:

~~_____ (1) The total budget appropriation of a fund described in Section 11-13-525 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.~~

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~~(2) The notice may be waived in writing or verbally during attendance at the meeting by a member of the governing board.~~

~~Section 49. Section 11-13-527 is enacted to read:~~

‡ ~~{11-13-527}~~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.

Section ~~{50}~~49. Section ~~{11-13-528}~~11-13-527 is enacted to read:

~~{11-13-528}~~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.

Section ~~{51}~~50. Section ~~{11-13-529}~~11-13-528 is enacted to read:

~~{11-13-529}~~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.

Section 51. Section 11-13-529 is enacted to read:

11-13-529. Audits required.

(1) An interlocal entity shall facilitate an audit of the interlocal entity in accordance

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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.

Section 52. Section **11-13-530** is enacted to read:

11-13-530. ~~Audits required.~~

(1) ~~An~~ Interlocal entity may expand uniform procedures -- Limitation.

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

(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.

Section 53. Section **11-13-531** is enacted to read:

11-13-531. ~~Interlocal entity may expand uniform procedures -- Limitation.~~

(1) ~~Subject to Subsection (2), an~~ Imposing or increasing a fee for service provided by interlocal entity ~~{ may expand a uniform accounting, budgeting, or reporting procedure required by generally accepted accounting principles, to better serve the needs of }~~.

(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.

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(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 ~~may not deviate from or alter the basic prescribed classification systems for the identity of funds and accounts required by generally accepted accounting principles:~~

~~Section 54. Section 11-13-532 is enacted to read:~~

~~**11-13-532. 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 63F-1-701.~~

(b) (i) Except as provided by Subsection (3)(c)(i), the notice required under Subsection

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(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).

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(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.

Section ~~{55}~~54. Section ~~{11-13-533}~~11-13-532 is enacted to read:

~~{11-13-533}~~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:

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(a) a home owner; and

(b) a residential tenant.

Section ~~56~~55. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

(a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

(a) electronic mail;

(b) instant messaging;

(c) electronic chat;

(d) text messaging as defined in Section 76-4-401; or

(e) any other method that conveys a message or facilitates communication electronically.

(6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

(i) a chance gathering or social gathering; or

(ii) a convening of the State Tax Commission to consider a confidential tax matter in

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accordance with Section 59-1-405.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

(i) no public funds are appropriated for expenditure during the time the public body is convened; and

(ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

(7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(9) (a) "Public body" means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(ii) consists of two or more persons;

(iii) expends, disburses, or is supported in whole or in part by tax revenue; and

(iv) is vested with the authority to make decisions regarding the public's business.

(b) "Public body" includes, as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking.

~~(b)~~ (c) "Public body" does not include a:

(i) political party, political group, or political caucus;

(ii) conference committee, rules committee, or sifting committee of the Legislature; or

(iii) school community council established under Section 53A-1a-108.

(10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when

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no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.

(12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) "Specified body" means an administrative, advisory, executive, or legislative body that:

(a) is not a public body;

(b) consists of three or more members; and

(c) includes at least one member who is:

(i) a legislator; and

(ii) officially appointed to the body by the President of the Senate, Speaker of the House of Representatives, or governor.

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section ~~57~~56. Section **53-2a-605** is amended to read:

53-2a-605. Local government disaster funds.

(1) (a) Subject to this section and notwithstanding anything to the contrary contained in Title 10, Utah Municipal Code, or Title 17, Counties, Title 17B, Limited Purpose Local Government Entities - Local Districts, or Title 17D, Chapter 1, Special Service District Act, the governing body of a local government may create and maintain by ordinance a special fund known as a local government disaster fund.

(b) The local fund shall consist of:

(i) subject to the limitations of this section, money transferred to it in accordance with Subsection (2);

(ii) any other public or private money received by the local government that is:

(A) given to the local government for purposes consistent with this section; and

(B) deposited into the local fund at the request of:

(I) the governing body of the local government; or

(II) the person giving the money; and

(iii) interest or income realized from the local fund.

(c) Interest or income realized from the local fund shall be deposited into the local

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fund.

(d) Money in a local fund may be:

(i) deposited or invested as provided in Section 51-7-11; or

(ii) transferred by the local government treasurer to the state treasurer under Section 51-7-5 for the state treasurer's management and control under Title 51, Chapter 7, State Money Management Act.

(e) (i) The money in a local fund may accumulate from year to year until the local government governing body determines to spend any money in the local fund for one or more of the purposes specified in Subsection (3).

(ii) Money in a local fund at the end of a fiscal year:

(A) shall remain in the local fund for future use; and

(B) may not be transferred to any other fund or used for any other purpose.

(2) The amounts transferred to a local fund may not exceed 10% of the total estimated revenues of the local government for the current fiscal period that are not restricted or otherwise obligated.

(3) Money in the fund may only be used to fund the services and activities of the local government creating the local fund in response to:

(a) a declared disaster within the boundaries of the local government;

(b) the aftermath of the disaster that gave rise to a declared disaster within the boundaries of the local government; and

(c) subject to Subsection (5), emergency preparedness.

(4) (a) A local fund is subject to this part and:

(i) in the case of a town, Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, except that:

(A) in addition to the funds listed in Section 10-5-106, the mayor shall prepare a budget for the local fund;

(B) Section 10-5-119 addressing termination of special funds does not apply to a local fund; and

(C) the council of the town may not authorize an interfund loan under Section 10-5-120 from the local fund;

(ii) in the case of a city, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah

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Cities, except that:

(A) in addition to the funds listed in Section 10-6-109, the mayor shall prepare a budget for the local fund;

(B) Section 10-6-131 addressing termination of special funds does not apply to a local fund; and

(C) the governing body of the city may not authorize an interfund loan under Section 10-6-132 from the local fund; and

(iii) in the case of a county, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, except that:

(A) Section 17-36-29 addressing termination of special funds does not apply to a local fund; and

(B) the governing body of the county may not authorize an interfund loan under Section 17-36-30 from the local fund; ~~[and]~~

(iv) in the case of a local district or special service district, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, except that:

(A) Section 17B-1-625, addressing termination of a special fund, does not apply to a local fund; and

(B) the governing body of the local district or special service district may not authorize an interfund loan under Section 17B-1-626 from the local fund~~[-]; and~~

(v) in the case of an interlocal entity, Title 11, Chapter 13, Part 5, Fiscal Procedures for Interlocal Entities, except for the following provisions:

(A) Section ~~{11-13-523}~~11-13-522 addressing termination of a special fund does not apply to a local fund; and

(B) the governing board of the interlocal entity may not authorize an interfund loan under Section ~~{11-13-524}~~11-13-523 from the local fund.

(b) Notwithstanding Subsection (4)(a), transfers of money to a local fund or the accumulation of money in a local fund do not affect any limits on fund balances, net assets, or the accumulation of retained earnings in any of the following of a local government:

(i) a general fund;

(ii) an enterprise fund;

(iii) an internal service fund; or

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(iv) any other fund.

(5) (a) A local government may not expend during a fiscal year more than 10% of the money budgeted to be deposited into a local fund during that fiscal year for emergency preparedness.

(b) The amount described in Subsection (5)(a) shall be determined before the adoption of the tentative budget.

Section ~~58~~57. Section **63G-2-103** is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

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- (i) the original data, including numbers, text, voice, graphics, and images;
- (ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or
- (iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

- (i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or
- (ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

- (a) commonly used or intended for the purpose of producing an explosion; and
- (b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

- (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

- (ii) the resultant gaseous pressures are capable of:

- (A) producing destructive effects on contiguous objects; or
- (B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

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(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the State Board of Regents, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business[-]; and

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official

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actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

- (i) the date, time, location, and nature of the complaint, the incident, or offense;
- (ii) names of victims;
- (iii) the nature or general scope of the agency's initial actions taken in response to the incident;
- (iv) the general nature of any injuries or estimate of damages sustained in the incident;
- (v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or
- (vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with a records committee order.

(17) "Person" means:

- (a) an individual;
- (b) a nonprofit or profit corporation;
- (c) a partnership;
- (d) a sole proprietorship;
- (e) other type of business organization; or
- (f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

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(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental

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entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205; or

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records committee" means the State Records Committee created in Section 63G-2-501.

(25) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(26) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(27) "Sponsored research" means research, training, and other sponsored activities as

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defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(28) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(29) "State archivist" means the director of the state archives.

(30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section ~~{59}~~58. **Repealer.**

This bill repeals:

Section 11-13-223 (Superseded 05/12/15), **Open and public meetings.**

Section 11-13-223 (Effective 05/12/15), **Open and public meetings.**

†

Legislative Review Note

~~as of 2-3-15 11:02 AM~~

~~Office of Legislative Research and General Counsel~~