

SB0037S01 compared with SB0037

~~{deleted text}~~ shows text that was in SB0037 but was deleted in SB0037S01.

inserted text shows text that was not in SB0037 but was inserted into SB0037S01.

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Senator Daniel McCay proposes the following substitute bill:

PUBLIC INFRASTRUCTURE DISTRICT REVISIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: James A. Dunnigan

LONG TITLE

~~{Committee Note:~~

~~—————The Economic Development and Workforce Services Interim Committee recommended this bill.~~

~~—————Legislative Vote: 14 voting for 0 voting against 3 absent~~

~~{General Description:~~

This bill modifies provisions related to public infrastructure districts.

Highlighted Provisions:

This bill:

- ▶ renumbers provisions related to public infrastructure districts; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

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Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 11-42-102**, as last amended by Laws of Utah 2020, Chapter 282
- 11-42-106**, as last amended by Laws of Utah 2020, Chapter 282
- 11-42-201**, as last amended by Laws of Utah 2019, Chapter 490
- 11-42-411**, as last amended by Laws of Utah 2020, Chapter 282
- 17B-1-102**, as last amended by Laws of Utah 2019, Chapter 490
- 17B-1-1102**, as last amended by Laws of Utah 2019, Chapter 490
- 59-2-1317**, as last amended by Laws of Utah 2019, Chapters 207 and 490
- 63H-1-102**, as last amended by Laws of Utah 2020, Chapter 282

RENUMBERS AND AMENDS:

- 17D-4-101**, (Renumbered from 17B-2a-1201, as enacted by Laws of Utah 2019, Chapter 490)
- 17D-4-102**, (Renumbered from 17B-2a-1202, as last amended by Laws of Utah 2020, Chapters 282 and 397)
- 17D-4-103**, (Renumbered from 17B-2a-1203, as enacted by Laws of Utah 2019, Chapter 490)
- 17D-4-201**, (Renumbered from 17B-2a-1204, as last amended by Laws of Utah 2020, Chapters 282 and 397)
- 17D-4-202**, (Renumbered from 17B-2a-1205, as last amended by Laws of Utah 2020, Chapters 282 and 397)
- 17D-4-203**, (Renumbered from 17B-2a-1206, as last amended by Laws of Utah 2020, Chapter 282)
- 17D-4-204**, (Renumbered from 17B-2a-1211, as enacted by Laws of Utah 2019, Chapter 490)
- 17D-4-205**, (Renumbered from 17B-2a-1212, as enacted by Laws of Utah 2019, Chapter 490)
- 17D-4-301**, (Renumbered from 17B-2a-1207, as last amended by Laws of Utah 2020, Chapters 354 and 397)

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17D-4-302, (Renumbered from 17B-2a-1208, as enacted by Laws of Utah 2019, Chapter 490)

17D-4-303, (Renumbered from 17B-2a-1209, as enacted by Laws of Utah 2019, Chapter 490)

17D-4-304, (Renumbered from 17B-2a-1210, as enacted by Laws of Utah 2019, Chapter 490)

17D-4-305, (Renumbered from 17B-2a-1213, as enacted by Laws of Utah 2019, Chapter 490)

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

Section 1. Section **11-42-102** is amended to read:

11-42-102. Definitions.

(1) As used in this chapter:

(a) "Adequate protests" means, for all proposed assessment areas except sewer assessment areas, timely filed, written protests under Section 11-42-203 that represent at least 40% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:

(i) protests relating to:

(A) property that has been deleted from a proposed assessment area; or

(B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

(ii) protests that have been withdrawn under Subsection 11-42-203(3).

(b) "Adequate protests" means, for a proposed sewer assessment area, timely filed, written protests under Section 11-42-203 that represent at least 70% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating adequate protests under Subsection (1)(a).

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a

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local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

(3) "Assessment bonds" means bonds that are:

(a) issued under Section 11-42-605; and

(b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.

(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.

(5) "Assessment lien" means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.

(6) "Assessment method" means the method:

(a) by which an assessment is levied against benefitted property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method; and

(b) that, when applied to a benefitted property, accounts for an assessment that meets the requirements of Section 11-42-409.

(7) "Assessment ordinance" means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(8) "Assessment resolution" means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(9) "Benefitted property" means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.

(10) "Bond anticipation notes" means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.

(11) "Bonds" means assessment bonds and refunding assessment bonds.

(12) "Commercial area" means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.

(13) (a) "Commercial or industrial real property" means real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the

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purpose or activity is for profit:

- (i) commercial;
 - (ii) mining;
 - (iii) industrial;
 - (iv) manufacturing;
 - (v) governmental;
 - (vi) trade;
 - (vii) professional;
 - (viii) a private or public club;
 - (ix) a lodge;
 - (x) a business; or
 - (xi) a similar purpose.
- (b) "Commercial or industrial real property" includes real property that:
- (i) is used as or held for dwelling purposes; and
 - (ii) contains more than four rental units.

(14) "Connection fee" means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.

(15) "Contract price" means:

- (a) the cost of acquiring an improvement, if the improvement is acquired; or
- (b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.

(16) "Designation ordinance" means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.

(17) "Designation resolution" means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.

(18) "Economic promotion activities" means activities that promote economic growth in a commercial area of a local entity, including:

- (a) sponsoring festivals and markets;
- (b) promoting business investment or activities;
- (c) helping to coordinate public and private actions; and

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(d) developing and issuing publications designed to improve the economic well-being of the commercial area.

(19) "Environmental remediation activity" means a surface or subsurface enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth movement, or change to grade or elevation that improves the use, function, aesthetics, or environmental condition of publicly owned property.

(20) "Equivalent residential unit" means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.

(21) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

(d) for the military installation development authority created in Section 63H-1-201, the board, as defined in Section 63H-1-102; and

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

(22) "Guaranty fund" means the fund established by a local entity under Section 11-42-701.

(23) "Improved property" means property upon which a residential, commercial, or other building has been built.

(24) "Improvement":

(a) (i) means a publicly owned infrastructure, facility, system, or environmental remediation activity that:

(A) a local entity is authorized to provide;

(B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or

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(C) a local entity is requested to provide through an interlocal agreement in accordance with Chapter 13, Interlocal Cooperation Act; and

(ii) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:

(A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection (24)(a)(i); and

(B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or

(b) for a local district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

(25) "Improvement revenues":

(a) means charges, fees, impact fees, or other revenues that a local entity receives from improvements; and

(b) does not include revenue from assessments.

(26) "Incidental refunding costs" means any costs of issuing refunding assessment bonds and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of refunding assessment bonds; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

(27) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(28) "Interim warrant" means a warrant issued by a local entity under Section

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11-42-601.

(29) "Jurisdictional boundaries" means:

- (a) for a county, the boundaries of the unincorporated area of the county; and
- (b) for each other local entity, the boundaries of the local entity.

(30) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(31) "Local entity" means:

- (a) a county, city, town, special service district, or local district;
- (b) an interlocal entity as defined in Section 11-13-103;
- (c) the military installation development authority, created in Section 63H-1-201;
- (d) a public infrastructure district created by the military installation development authority under [~~Title 17B, Chapter 2a, Part 12~~] Title 17D, Chapter 4, Public Infrastructure District Act;

(e) the Utah Inland Port Authority, created in Section 11-58-201; or

(f) any other political subdivision of the state.

(32) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

(33) "Mailing address" means:

(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and

(b) if the property is improved property:

(i) the property's street number; or

(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

(34) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

(35) "Operation and maintenance costs":

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

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(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

(36) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

(37) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

(38) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

(39) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

(40) "Project engineer" means the surveyor or engineer employed by or the private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

(41) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

(42) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

(43) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

(44) "Public agency" means:

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

(b) a political subdivision of the state.

(45) "Reduced payment obligation" means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

(46) "Refunding assessment bonds" means assessment bonds that a local entity issues

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under Section 11-42-607 to refund, in part or in whole, assessment bonds.

(47) "Reserve fund" means a fund established by a local entity under Section 11-42-702.

(48) "Service" means:

(a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;

(b) economic promotion activities; or

(c) any other service that a local entity is required or authorized to provide.

(49) (a) "Sewer assessment area" means an assessment area that has as the assessment area's primary purpose the financing and funding of public improvements to provide sewer service where there is, in the opinion of the local board of health, substantial evidence of septic system failure in the defined area due to inadequate soils, high water table, or other factors proven to cause failure.

(b) "Sewer assessment area" does not include property otherwise located within the assessment area:

(i) on which an approved conventional or advanced wastewater system has been installed during the previous five calendar years;

(ii) for which the local health department has inspected the system described in Subsection (49)(b)(i) to ensure that the system is functioning properly; and

(iii) for which the property owner opts out of the proposed assessment area for the earlier of a period of 10 calendar years or until failure of the system described in Subsection (49)(b)(i).

(50) "Special service district" means the same as that term is defined in Section 17D-1-102.

(51) "Unassessed benefitted government property" means property that a local entity may not assess in accordance with Section 11-42-408 but is benefitted by an improvement, operation and maintenance, or economic promotion activities.

(52) "Unimproved property" means property upon which no residential, commercial, or other building has been built.

(53) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

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Section 2. Section **11-42-106** is amended to read:

11-42-106. Action to contest assessment or proceeding -- Requirements -- Exclusive remedy -- Bonds and assessment incontestable.

(1) A person who contests an assessment or any proceeding to designate an assessment area or levy an assessment may commence a civil action against the local entity to:

- (a) set aside a proceeding to designate an assessment area; or
- (b) enjoin the levy or collection of an assessment.

(2) (a) Each action under Subsection (1) shall be commenced in the district court with jurisdiction in the county in which the assessment area is located.

(b) (i) Except as provided in Subsection (2)(b)(ii), an action under Subsection (1) may not be commenced against and a summons relating to the action may not be served on the local entity more than 60 days after the effective date of the:

- (A) designation resolution or designation ordinance, if the challenge is to the designation of an assessment area;
- (B) assessment resolution or ordinance, if the challenge is to an assessment; or
- (C) amended resolution or ordinance, if the challenge is to an amendment.

(ii) The period for commencing an action and serving a summons under Subsection (2)(b)(i) is 30 days if the designation resolution, assessment resolution, or amended resolution was:

(A) adopted by the military installation development authority, created in Section 63H-1-201, or a public infrastructure district created by the military installation development authority under [~~Title 17B, Chapter 2a, Part 12~~] Title 17D, Chapter 4, Public Infrastructure District Act; and

(B) all owners of property within the assessment area or proposed assessment area consent in writing to the designation resolution, assessment resolution, or amended resolution.

(3) (a) An action under Subsection (1) is the exclusive remedy of a person who:

- (i) claims an error or irregularity in an assessment or in any proceeding to designate an assessment area or levy an assessment; or
- (ii) challenges a bondholder's right to repayment.

(b) A court may not hear any complaint under Subsection (1) that a person was authorized to make but did not make in a protest under Section 11-42-203 or at a hearing under

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Section 11-42-204.

(c) (i) If a person has not brought a claim for which the person was previously authorized to bring but is otherwise barred from making under Subsection (2)(b), the claim may not be brought later because of an amendment to the resolution or ordinance unless the claim arises from the amendment itself.

(ii) In an action brought pursuant to Subsection (1), a person may not contest a previous decision, proceeding, or determination for which the service deadline described in Subsection (2)(b) has expired by challenging a subsequent decision, proceeding, or determination.

(4) An assessment or a proceeding to designate an assessment area or to levy an assessment may not be declared invalid or set aside in part or in whole because of an error or irregularity that does not go to the equity or justice of the proceeding or the assessment meeting the requirements of Section 11-42-409.

(5) After the expiration of the period referred to in Subsection (2)(b):

(a) assessment bonds and refunding assessment bonds issued or to be issued with respect to an assessment area and assessments levied on property in the assessment area become at that time incontestable against all persons who have not commenced an action and served a summons as provided in this section; and

(b) a suit to enjoin the issuance or payment of assessment bonds or refunding assessment bonds, the levy, collection, or enforcement of an assessment, or to attack or question in any way the legality of assessment bonds, refunding assessment bonds, or an assessment may not be commenced, and a court may not inquire into those matters.

(6) (a) This section may not be interpreted to insulate a local entity from a claim of misuse of assessment funds after the expiration of the period described in Subsection (2)(b).

(b) (i) Except as provided in Subsection (6)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of assessment funds.

(ii) The limitation in Subsection (6)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

Section 3. Section **11-42-201** is amended to read:

**11-42-201. Resolution or ordinance designating an assessment area --
Classifications within an assessment area -- Preconditions to adoption of a resolution or**

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ordinance.

(1) (a) Subject to the requirements of this part, a governing body of a local entity intending to levy an assessment on property to pay some or all of the cost of providing improvements benefitting the property, performing operation and maintenance benefitting the property, or conducting economic promotion activities benefitting the property shall adopt a resolution or ordinance designating an assessment area.

(b) A designation resolution or designation ordinance described in Subsection (1)(a) may divide the assessment area into multiple classifications to allow the governing body to:

(i) levy a different level of assessment; or

(ii) use a different assessment method in each classification to reflect more fairly the benefits that property within the different classifications is expected to receive because of the proposed improvement, operation and maintenance, or economic promotion activities.

(c) The boundaries of a proposed assessment area:

(i) may include property that is not intended to be assessed; and

(ii) except for an assessment area within a public infrastructure district ~~as defined in Section 17B-1-102~~ and created under Title 17D, Chapter 4, Public Infrastructure District Act, may not be coextensive or substantially coterminous with the boundaries of the local entity.

(2) Before adopting a designation resolution or designation ordinance described in Subsection (1)(a), the governing body of the local entity shall:

(a) give notice as provided in Section 11-42-202;

(b) receive and consider all protests filed under Section 11-42-203; and

(c) hold a public hearing as provided in Section 11-42-204.

Section 4. Section **11-42-411** is amended to read:

11-42-411. Installment payment of assessments.

(1) (a) In an assessment resolution or ordinance, the governing body may, subject to Subsection (1)(b), provide that some or all of the assessment be paid in installments over a period:

(i) not to exceed 20 years from the effective date of the resolution or ordinance, except as provided in Subsection (1)(a)(ii); or

(ii) not to exceed 30 years from the effective date of the resolution, for a resolution

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adopted by:

(A) the military installation development authority, created in Section 63H-1-201; or

(B) a public infrastructure district created by the military installation development authority under [~~Title 17B, Chapter 2a, Part 12~~] Title 17D, Chapter 4, Public Infrastructure District Act.

(b) If an assessment resolution or ordinance provides that some or all of the assessment be paid in installments for a period exceeding 10 years from the effective date of the resolution or ordinance, the governing body:

(i) shall make a determination that:

(A) the improvement for which the assessment is made has a reasonable useful life for the full period during which installments are to be paid; or

(B) it would be in the best interests of the local entity and the property owners for installments to be paid for more than 10 years; and

(ii) may provide in the resolution or ordinance that no assessment is payable during some or all of the period ending three years after the effective date of the resolution or ordinance.

(2) An assessment resolution or ordinance that provides for the assessment to be paid in installments may provide that the unpaid balance be paid over the period of time that installments are payable:

(a) in substantially equal installments of principal; or

(b) in substantially equal installments of principal and interest.

(3) (a) Each assessment resolution or ordinance that provides for the assessment to be paid in installments shall, subject to Subsections (3)(b) and (c), provide that the unpaid balance of the assessment bear interest at a fixed rate, variable rate, or a combination of fixed and variable rates, as determined by the governing body, from the effective date of the resolution or ordinance or another date specified in the resolution or ordinance.

(b) If the assessment is for operation and maintenance costs or for the costs of economic promotion activities:

(i) a local entity may charge interest only from the date each installment is due; and

(ii) the first installment of an assessment shall be due 15 days after the effective date of the assessment resolution or ordinance.

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(c) If an assessment resolution or ordinance provides for the unpaid balance of the assessment to bear interest at a variable rate, the assessment resolution or ordinance shall specify:

- (i) the basis upon which the rate is to be determined from time to time;
- (ii) the manner in which and schedule upon which the rate is to be adjusted; and
- (iii) a maximum rate that the assessment may bear.

(4) Interest payable on assessments may include:

- (a) interest on assessment bonds;
- (b) ongoing local entity costs incurred for administration of the assessment area; and
- (c) any costs incurred with respect to:

(i) securing a letter of credit or other instrument to secure payment or repurchase of bonds; or

(ii) retaining a marketing agent or an indexing agent.

(5) Interest imposed in an assessment resolution or ordinance shall be paid in addition to the amount of each installment annually or at more frequent intervals as provided in the assessment resolution or ordinance.

(6) (a) Except for an assessment for operation and maintenance costs or for the costs of economic promotion activities, a property owner may pay some or all of the entire assessment without interest if paid within 25 days after the assessment resolution or ordinance takes effect.

(b) After the 25-day period stated in Subsection (6)(a), a property owner may at any time prepay some or all of the assessment levied against the owner's property.

(c) A local entity may require a prepayment of an installment to include:

(i) an amount equal to the interest that would accrue on the assessment to the next date on which interest is payable on bonds issued in anticipation of the collection of the assessment; and

(ii) the amount necessary, in the governing body's opinion or the opinion of the officer designated by the governing body, to assure the availability of money to pay:

(A) interest that becomes due and payable on those bonds; and

(B) any premiums that become payable on bonds that are called in order to use the money from the prepaid assessment installment.

Section 5. Section **17B-1-102** is amended to read:

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17B-1-102. Definitions.

As used in this title:

- (1) "Appointing authority" means the person or body authorized to make an appointment to the board of trustees.
- (2) "Basic local district":
 - (a) means a local district that is not a specialized local district; and
 - (b) includes an entity that was, under the law in effect before April 30, 2007, created and operated as a local district, as defined under the law in effect before April 30, 2007.
- (3) "Bond" means:
 - (a) a written obligation to repay borrowed money, whether denominated a bond, note, warrant, certificate of indebtedness, or otherwise; and
 - (b) a lease agreement, installment purchase agreement, or other agreement that:
 - (i) includes an obligation by the district to pay money; and
 - (ii) the district's board of trustees, in its discretion, treats as a bond for purposes of Title 11, Chapter 14, Local Government Bonding Act, or Title 11, Chapter 27, Utah Refunding Bond Act.
- (4) "Cemetery maintenance district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 1, Cemetery Maintenance District Act, including an entity that was created and operated as a cemetery maintenance district under the law in effect before April 30, 2007.
- (5) "Drainage district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that was created and operated as a drainage district under the law in effect before April 30, 2007.
- (6) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a local district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.
- (7) "Fire protection district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 3, Fire Protection District Act, including an entity that was created and operated as a fire protection district under the law in effect before April 30, 2007.

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(8) "General obligation bond":

(a) means a bond that is directly payable from and secured by ad valorem property taxes that are:

(i) levied:

(A) by the district that issues the bond; and

(B) on taxable property within the district; and

(ii) in excess of the ad valorem property taxes of the district for the current fiscal year;

and

(b) does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(9) "Improvement assurance" means a surety bond, letter of credit, cash, or other security:

(a) to guarantee the proper completion of an improvement;

(b) that is required before a local district may provide a service requested by a service applicant; and

(c) that is offered to a local district to induce the local district before construction of an improvement begins to:

(i) provide the requested service; or

(ii) commit to provide the requested service.

(10) "Improvement assurance warranty" means a promise that the materials and workmanship of an improvement:

(a) comply with standards adopted by a local district; and

(b) will not fail in any material respect within an agreed warranty period.

(11) "Improvement district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an entity that was created and operated as a county improvement district under the law in effect before April 30, 2007.

(12) "Irrigation district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 5, Irrigation District Act, including an entity that

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was created and operated as an irrigation district under the law in effect before April 30, 2007.

(13) "Local district" means a limited purpose local government entity, as described in Section 17B-1-103, that operates under, is subject to, and has the powers set forth in:

- (a) this chapter; or
- (b) (i) this chapter; and
- (ii) (A) Chapter 2a, Part 1, Cemetery Maintenance District Act;
- (B) Chapter 2a, Part 2, Drainage District Act;
- (C) Chapter 2a, Part 3, Fire Protection District Act;
- (D) Chapter 2a, Part 4, Improvement District Act;
- (E) Chapter 2a, Part 5, Irrigation District Act;
- (F) Chapter 2a, Part 6, Metropolitan Water District Act;
- (G) Chapter 2a, Part 7, Mosquito Abatement District Act;
- (H) Chapter 2a, Part 8, Public Transit District Act;
- (I) Chapter 2a, Part 9, Service Area Act;
- (J) Chapter 2a, Part 10, Water Conservancy District Act;
- (K) Chapter 2a, Part 11, Municipal Services District Act; or
- (L) [~~Chapter 2a, Part 12~~] Title 17D, Chapter 4, Public Infrastructure District Act.

(14) "Metropolitan water district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water District Act, including an entity that was created and operated as a metropolitan water district under the law in effect before April 30, 2007.

(15) "Mosquito abatement district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District Act, including an entity that was created and operated as a mosquito abatement district under the law in effect before April 30, 2007.

(16) "Municipal" means of or relating to a municipality.

(17) "Municipality" means a city, town, or metro township.

(18) "Municipal services district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 11, Municipal Services District Act.

(19) "Person" means an individual, corporation, partnership, organization, association,

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trust, governmental agency, or other legal entity.

(20) "Political subdivision" means a county, city, town, metro township, local district under this title, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

(21) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, or a political subdivision.

(22) "Public entity" means:

(a) the United States or an agency of the United States;

(b) the state or an agency of the state;

(c) a political subdivision of the state or an agency of a political subdivision of the state;

(d) another state or an agency of that state; or

(e) a political subdivision of another state or an agency of that political subdivision.

~~[(23)]~~ "Public infrastructure district" means a local district that operates under and is subject to the provisions of this chapter and ~~{}~~ Chapter 2a, Part 12 ~~{}~~ [Title 17D, Chapter 4](#), ~~Public Infrastructure District Act.~~

~~[(24)]~~ [(23)] "Public transit district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act, including an entity that was created and operated as a public transit district under the law in effect before April 30, 2007.

~~[(25)]~~ [(24)] "Revenue bond":

(a) means a bond payable from designated taxes or other revenues other than the local district's ad valorem property taxes; and

(b) does not include:

(i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

~~[(26)]~~ [(25)] "Rules of order and procedure" means a set of rules that govern and

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prescribe in a public meeting:

- (a) parliamentary order and procedure;
- (b) ethical behavior; and
- (c) civil discourse.

~~[(27)]~~ (26) "Service applicant" means a person who requests that a local district provide a service that the local district is authorized to provide.

~~[(28)]~~ (27) "Service area" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was created and operated as a county service area or a regional service area under the law in effect before April 30, 2007.

~~[(29)]~~ (28) "Short-term bond" means a bond that is required to be repaid during the fiscal year in which the bond is issued.

~~[(30)]~~ (29) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

~~[(31)]~~ (30) "Special assessment bond" means a bond payable from special assessments.

~~[(32)]~~ (31) "Specialized local district" means a local district that is a cemetery maintenance district, a drainage district, a fire protection district, an improvement district, an irrigation district, a metropolitan water district, a mosquito abatement district, a public transit district, a service area, a water conservancy district, a municipal services district, or a public infrastructure district.

~~[(33)]~~ (32) "Taxable value" means the taxable value of property as computed from the most recent equalized assessment roll for county purposes.

~~[(34)]~~ (33) "Tax and revenue anticipation bond" means a bond:

- (a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and
- (b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

~~[(35)]~~ (34) "Unincorporated" means not included within a municipality.

~~[(36)]~~ (35) "Water conservancy district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District Act, including an entity that was created and operated as a water conservancy district under the

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law in effect before April 30, 2007.

~~[(37)]~~ (36) "Works" includes a dam, reservoir, well, canal, conduit, pipeline, drain, tunnel, power plant, and any facility, improvement, or property necessary or convenient for supplying or treating water for any beneficial use, and for otherwise accomplishing the purposes of a local district.

Section 6. Section **17B-1-1102** is amended to read:

17B-1-1102. General obligation bonds.

(1) Except as provided in Subsection (3), if a district intends to issue general obligation bonds, the district shall first obtain the approval of district voters for issuance of the bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.

(2) General obligation bonds shall be secured by a pledge of the full faith and credit of the district, subject to ~~[(a)]~~

~~_____]~~ ~~(a)]~~] for a water conservancy district, the property tax levy limits of Section 17B-2a-1006 ~~]; and~~]

~~[(b) for a limited tax bond as defined in Section {[] 17B-2a-1202 {[] 17D-4-102} that a public infrastructure district issues, the property tax levy limits of Section {[] 17B-2a-1209.] {[] 17D-4-303.}]~~

(3) A district may issue refunding general obligation bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, without obtaining voter approval.

(4) (a) A local district may not issue general obligation bonds if the issuance of the bonds will cause the outstanding principal amount of all of the district's general obligation bonds to exceed the amount that results from multiplying the fair market value of the taxable property within the district, as determined under Subsection 11-14-301(3)(b), by a number that is:

- (i) .05, for a basic local district;
- (ii) .004, for a cemetery maintenance district;
- (iii) .002, for a drainage district;
- (iv) .004, for a fire protection district;
- (v) .024, for an improvement district;
- (vi) .1, for an irrigation district;

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- (vii) .1, for a metropolitan water district;
- (viii) .0004, for a mosquito abatement district;
- (ix) .03, for a public transit district;
- (x) .12, for a service area; or
- (xi) .05 for a municipal services district; or.

~~[(xii) except for a limited tax bond as defined in Section ~~{}~~ 17B-2a-1202 ~~{}~~ 17D-4-102], .15 for a public infrastructure district.]~~

(b) Bonds or other obligations of a local district that are not general obligation bonds are not included in the limit stated in Subsection (4)(a).

(5) A district may not be considered to be a municipal corporation for purposes of the debt limitation of the Utah Constitution, Article XIV, Section 4.

(6) Bonds issued by an administrative or legal entity created under Title 11, Chapter 13, Interlocal Cooperation Act, may not be considered to be bonds of a local district that participates in the agreement creating the administrative or legal entity.

Section 7. Section **17D-4-101**, which is renumbered from Section 17B-2a-1201 is renumbered and amended to read:

CHAPTER 4. PUBLIC INFRASTRUCTURE DISTRICT ACT

Part 1. General Provisions

~~[17B-2a-1201].~~ **17D-4-101. Title.**

This ~~[part]~~ chapter is known as the "Public Infrastructure District Act."

Section 8. Section **17D-4-102**, which is renumbered from Section 17B-2a-1202 is renumbered and amended to read:

~~[17B-2a-1202].~~ **17D-4-102. Definitions.**

As used in this ~~[part]~~ chapter:

- (1) "Board" means the board of trustees of a public infrastructure district.
- (2) "Creating entity" means the county, municipality, or development authority that approves the creation of ~~[the]~~ a public infrastructure district.
- (3) "Development authority" means the military installation development authority created in Section 63H-1-201.
- (4) "District applicant" means the person proposing the creation of ~~[the]~~ a public infrastructure district.

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(5) "Division" means a division of a public infrastructure district:

(a) that is relatively equal in number of eligible voters or potential eligible voters to all other divisions within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and

(b) which a member of the board represents.

(6) "Governing document" means the document governing ~~the~~ a public infrastructure district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time, and subject to the limitations of Title 17B, Chapter 1, Provisions Applicable to All Local Districts, and this ~~part~~ chapter.

(7) (a) "Limited tax bond" means a bond:

(i) that is directly payable from and secured by ad valorem property taxes that are levied:

(A) by ~~the~~ a public infrastructure district that issues the bond; and

(B) on taxable property within the district;

(ii) that is a general obligation of the public infrastructure district; and

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the property tax levy rate limit established under Section ~~[17B-2a-1209]~~ 17D-4-303 for any fiscal year, except as provided in Subsection ~~[17B-2a-1207(8)]~~ 17D-4-301(8).

(b) "Limited tax bond" does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

Section 9. Section **17D-4-103**, which is renumbered from Section 17B-2a-1203 is renumbered and amended to read:

~~[17B-2a-1203]~~. **17D-4-103**. **Provisions applicable to public infrastructure districts.**

(1) Each public infrastructure district is governed by and has the powers stated in:

(a) this ~~part~~ chapter; and

(b) Title 17B, Chapter 1, Provisions Applicable to All Local Districts.

(2) This ~~part~~ chapter applies only to a public infrastructure district.

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~~[(3) A public infrastructure district is not subject to the provisions of any other part of this chapter.]~~

~~[(4) (3) If there is a conflict between a provision in Title 17B, Chapter 1, Provisions Applicable to All Local Districts, and a provision in this ~~[part] chapter~~, the provision in this ~~[part governs]~~ chapter supersedes the conflicting provision in Title 17B, Chapter 1, Provisions Applicable to All Local Districts.~~

Section 10. Section **17D-4-201**, which is renumbered from Section 17B-2a-1204 is renumbered and amended to read:

Part 2. Creation, Governance, and Powers of a Public Infrastructure District

~~**[17B-2a-1204].**~~ **17D-4-201. Creation -- Annexation or withdrawal of property.**

(1) (a) Except as provided in Subsection (1)(b), Subsection (2), and in addition to the provisions regarding creation of a local district in Title 17B, Chapter 1, Provisions Applicable to All Local Districts, a public infrastructure district may not be created unless:

(i) if there are any registered voters within the applicable area, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(ii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the applicable area consenting to the creation of the public infrastructure district.

(b) Notwithstanding Title 17B, Chapter 1, Part 2, Creation of a Local District, and any other provision of this ~~[part] chapter~~, the development authority may adopt a resolution creating a public infrastructure district as a subsidiary of the development authority if all owners of surface property proposed to be included within the public infrastructure district consent in writing to the creation of the public infrastructure district.

(2) (a) The following do not apply to the creation of a public infrastructure district:

(i) Section 17B-1-203;

(ii) Section 17B-1-204;

(iii) Subsection 17B-1-208(2);

(iv) Section 17B-1-212; or

(v) Section 17B-1-214.

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(b) The protest period described in Section 17B-1-213 may be waived in whole or in part with the consent of:

(i) 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(ii) 100% of the surface property owners within the applicable area approving the creation of the public infrastructure district.

(c) If the protest period is waived under Subsection (2)(b), a resolution approving the creation of the public infrastructure district may be adopted in accordance with Subsection 17B-1-213(5).

(d) A petition meeting the requirements of Subsection (1):

(i) may be certified under Section 17B-1-209; and

(ii) shall be filed with the lieutenant governor in accordance with Subsection 17B-1-215(1)(b)(iii).

(3) (a) Notwithstanding Title 17B, Chapter 1, Part 4, Annexation, an area outside of the boundaries of a public infrastructure district may be annexed into the public infrastructure district after:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the annexation; or

(B) adoption of a governing document that authorizes the board to annex an area outside of the boundaries of the public infrastructure district without the consent of the creating entity;

(ii) if there are any registered voters within the area proposed to be annexed, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area [~~and approves of~~], demonstrating that the registered voters approve of the annexation into the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be annexed [~~and consents~~], demonstrating the surface property owners consent to the annexation into the public infrastructure district.

(b) Upon meeting the requirements of Subsection (3)(a), the board shall comply with the resolution and filing requirements of Subsections 17B-1-414(1) and (2).

(4) (a) Notwithstanding Title 17B, Chapter 1, Part 5, Withdrawal, property may be

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withdrawn from a public infrastructure district after:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the withdrawal; or

(B) adoption of a governing document that authorizes the board to withdraw property from the public infrastructure district without the consent of the creating entity;

(ii) if there are any registered voters within the area proposed to be withdrawn, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area [~~and approves~~], demonstrating that the registered voters approve of the withdrawal from the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be withdrawn [~~and consents~~], demonstrating that the surface property owners consent to the withdrawal from the public infrastructure district.

(b) If any bonds that the public infrastructure district issues are allocable to the area to be withdrawn remain unpaid at the time of the proposed withdrawal, the property remains subject to any taxes, fees, or assessments that the public infrastructure district imposes until the bonds or any associated refunding bonds are paid.

(c) Upon meeting the requirements of Subsections (4)(a) and (b), the board shall comply with the requirements of Section 17B-1-512.

(5) [~~The~~] A creating entity may impose limitations on the powers of [~~the~~] a public infrastructure district through the governing document.

(6) (a) A public infrastructure district is separate and distinct from the creating entity.

(b) (i) Except as provided in Subsection (6)(b)(ii), any financial burden of a public infrastructure district:

(A) is borne solely by the public infrastructure district; and

(B) is not borne by the creating entity, by the state, or by any municipality, county, or other political subdivision.

(ii) Notwithstanding Subsection (6)(b)(i) and Section 17B-1-216, the governing document may require:

(A) the district applicant to bear the initial costs of the public infrastructure district; and

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(B) the public infrastructure district to reimburse the district applicant for the initial costs the creating entity bears.

(c) Any liability, judgment, or claim against a public infrastructure district:

(i) is the sole responsibility of the public infrastructure district; and

(ii) does not constitute a liability, judgment, or claim against the creating entity, the state, or any municipality, county, or other political subdivision.

(d) (i) (A) The public infrastructure district solely bears the responsibility of any collection, enforcement, or foreclosure proceeding with regard to any tax, fee, or assessment the public infrastructure district imposes.

(B) The creating entity does not bear the responsibility described in Subsection (6)(d)(i)(A).

(ii) A public infrastructure district, and not the creating entity, shall undertake the enforcement responsibility described in, as applicable, Subsection (6)(d)(i) in accordance with Title 59, Chapter 2, Property Tax Act, or Title 11, Chapter 42, Assessment Area Act.

(7) ~~[The]~~ A creating entity may establish criteria in determining whether to approve or disapprove of the creation of a public infrastructure district, including:

(a) historical performance of the district applicant;

(b) compliance with the creating entity's master plan;

(c) credit worthiness of the district applicant;

(d) plan of finance of the public infrastructure district; and

(e) proposed development within the public infrastructure district.

(8) (a) The creation of a public infrastructure district is subject to the sole discretion of the creating entity responsible for approving or rejecting the creation of the public infrastructure district.

(b) The proposed creating entity bears no liability for rejecting the proposed creation of a public infrastructure district.

Section 11. Section **17D-4-202**, which is renumbered from Section 17B-2a-1205 is renumbered and amended to read:

~~[17B-2a-1205]~~. **17D-4-202. Public infrastructure district board -- Governing document.**

(1) The legislative body or board of the creating entity shall appoint the members of the

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board of a public infrastructure district, in accordance with the governing document.

(2) (a) Unless otherwise limited in the governing document and except as provided in Subsection (2)(b), the initial term of each member of the board is four years.

(b) Notwithstanding Subsection (2)(a), approximately half of the members of the initial board shall serve a six-year term so that, after the expiration of the initial term, the term of approximately half the board members expires every two years.

(c) A board may elect that a majority of the board serve an initial term of six years.

(d) After the initial term, the term of each member of the board is four years.

(3) (a) Notwithstanding Subsection 17B-1-302(1)(b), a board member is not required to be a resident within the boundaries of the public infrastructure district if:

(i) all of the surface property owners consent to the waiver of the residency requirement;

(ii) there are no residents within the boundaries of the public infrastructure district;

(iii) no qualified candidate timely files to be considered for appointment to the board;

or

(iv) no qualified individual files a declaration of candidacy for a board position in accordance with Subsection 17B-1-306(4).

(b) Except under the circumstances described in Subsection (3)(a)(iii) or (iv), the residency requirement in Subsection 17B-1-302(1)(b) is applicable to any board member elected for a division or board position that has transitioned from an appointed to an elected board member in accordance with this section.

(c) An individual who is not a resident within the boundaries of the public infrastructure district may not serve as a board member unless the individual is:

(i) an owner of land or an agent or officer of the owner of land within the boundaries of the public infrastructure district; and

(ii) a registered voter at the individual's primary residence.

(4) (a) A governing document may provide for a transition from legislative body appointment under Subsection (1) to a method of election by registered voters based upon milestones or events that the governing document identifies, including a milestone for each division or individual board position providing that when the milestone is reached:

(i) for a division, the registered voters of the division elect a member of the board in

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place of an appointed member at the next municipal general election for the board position; or

(ii) for an at large board position established in the governing document, the registered voters of the public infrastructure district elect a member of the board in place of an appointed member at the next municipal general election for the board position.

(b) Regardless of whether a board member is elected under Subsection (4)(a), the position of each remaining board member shall continue to be appointed under Subsection (1) until the member's respective division or board position surpasses the density milestone described in the governing document.

(5) (a) Subject to Subsection (5)(c), the board may, in the board's discretion but no more frequently than every four years, reestablish the boundaries of each division so that each division that has reached a milestone specified in the governing document, as described in Subsection (4)(a), has, as nearly as possible, the same number of eligible voters.

(b) In reestablishing division boundaries under Subsection (5)(a), the board shall consider existing or potential developments within the divisions [~~which~~] that, when completed, would increase or decrease the number of eligible voters within the division.

(c) The governing document may prohibit the board from reestablishing, without the consent of the creating entity, the division boundaries as described in Subsection (5)(a).

(6) [~~The~~] A public infrastructure district may not compensate a board member for the member's service on the board under Section 17B-1-307 unless the board member is a resident within the boundaries of the public infrastructure district.

(7) [~~The~~] A governing document shall:

(a) include a boundary description and a map of the public infrastructure district;

(b) state the number of board members;

(c) describe any divisions of the public infrastructure district;

(d) establish any applicable property tax levy rate limit for the public infrastructure district;

(e) establish any applicable limitation on the principal amount of indebtedness for the public infrastructure district; and

(f) include other information that the public infrastructure district or the creating entity determines to be necessary or advisable.

(8) (a) Except as provided in Subsection (8)(b), the board and the governing body of

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the creating entity may amend a governing document by each adopting a resolution that approves the amended governing document.

(b) Notwithstanding Subsection (8)(a), any amendment to a property tax levy rate limitation requires the consent of:

(i) 100% of surface property owners within the boundaries of the public infrastructure district; and

(ii) 100% of the registered voters, if any, within the boundaries of the public infrastructure district.

(9) A board member is not in violation of Section 67-16-9 if the board member:

(a) discloses a business relationship in accordance with Sections 67-16-7 and 67-16-8 and files the disclosure with the creating entity:

(i) before any appointment or election; and

(ii) upon any significant change in the business relationship; and

(b) conducts the affairs of the public infrastructure district in accordance with this title and any parameters described in the governing document.

(10) Notwithstanding any other provision of this section, the governing document governs the number, appointment, and terms of board members of a public infrastructure district created by the development authority.

Section 12. Section **17D-4-203**, which is renumbered from Section 17B-2a-1206 is renumbered and amended to read:

~~[17B-2a-1206].~~ **17D-4-203. Public infrastructure district powers.**

In addition to the powers conferred on a public infrastructure district under Section 17B-1-103, a public infrastructure district may:

(1) issue negotiable bonds to pay:

(a) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;

(b) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section 11-42a-102;

(c) public improvements related to the provision of housing;

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- (d) capital costs related to public transportation; and
- (e) for a public infrastructure district created by the development authority, the cost of acquiring or financing publicly owned infrastructure and improvements;
- (2) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;
- (3) acquire completed or partially completed improvements for fair market value as reasonably determined by:
 - (a) the board;
 - (b) the creating entity, if required in the governing document; or
 - (c) a surveyor or engineer that a public infrastructure district employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements;
- (4) contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity; and
- (5) for a public infrastructure district created by a development authority:
 - (a) (i) operate and maintain publicly owned infrastructure and improvements the district acquires or finances; and
 - (ii) use fees, assessments, or taxes to pay for the operation and maintenance of those publicly owned infrastructure and improvements; and
 - (b) issue bonds under Title 11, Chapter 42, Assessment Area Act.

Section 13. Section **17D-4-204**, which is renumbered from Section 17B-2a-1211 is renumbered and amended to read:

~~[17B-2a-1211]~~. **17D-4-204. Relation to other local entities.**

(1) Notwithstanding ~~[the]~~ a creation of the public infrastructure district, the creating entity and any other public entity, as applicable, retains all of the entity's authority over all zoning, planning, design specifications and approvals, and permitting within the public infrastructure district.

(2) The inclusion of property within the boundaries of a public infrastructure district

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does not preclude the inclusion of the property within any other local district.

(3) (a) All infrastructure that is connected to another public entity's system:

(i) belongs to that public entity, regardless of inclusion within the boundaries of a public infrastructure district, unless the public infrastructure district and the public entity otherwise agree; and

(ii) shall comply with the design, inspection requirements, and other standards of the public entity.

(b) ~~[The]~~ A public infrastructure district shall convey or transfer the infrastructure described in Subsection (3)(a) free of liens or financial encumbrances to the public entity at no cost to the public entity.

Section 14. Section **17D-4-205**, which is renumbered from Section 17B-2a-1212 is renumbered and amended to read:

~~[17B-2a-1212].~~ **17D-4-205. Transparency.**

A public infrastructure district shall file annual reports with the creating entity regarding the public infrastructure district's actions as provided in the governing document.

Section 15. Section **17D-4-301**, which is renumbered from Section 17B-2a-1207 is renumbered and amended to read:

Part 3. Bond Issuance, Fee Collection, and Property Tax Levy Authority for a Public Infrastructure District

~~[17B-2a-1207].~~ **17D-4-301. Public infrastructure district bonds.**

(1) A public infrastructure district may issue negotiable bonds for the purposes described in Section ~~[17B-2a-1206]~~ **17D-4-203**, as provided in, as applicable:

- (a) Title 11, Chapter 14, Local Government Bonding Act;
- (b) Title 11, Chapter 27, Utah Refunding Bond Act;
- (c) Title 11, Chapter 42, Assessment Area Act; and
- (d) this section.

(2) A public infrastructure district bond:

(a) shall mature within 40 years of the date of issuance; and

(b) may not be secured by any improvement or facility paid for by the public infrastructure district.

(3) (a) A public infrastructure district may issue a limited tax bond, in the same manner

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as a general obligation bond:

(i) with the consent of 100% of surface property owners within the boundaries of the public infrastructure district and 100% of the registered voters, if any, within the boundaries of the proposed public infrastructure district; or

(ii) upon approval of a majority of the registered voters within the boundaries of the public infrastructure district voting in an election held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(b) A limited tax bond described in Subsection (3)(a):

(i) is not subject to the limitation on a general obligation bond described in Subsection 17B-1-1102(4)(a)(xii); and

(ii) is subject to a limitation, if any, on the principal amount of indebtedness as described in the governing document.

(c) Unless limited tax bonds are initially purchased exclusively by one or more qualified institutional buyers as defined in Rule 144A, 17 C.F.R. Sec. 230.144A, the public infrastructure district may only issue limited tax bonds in denominations of not less than \$500,000, and in integral multiples above \$500,000 of not less than \$1,000 each.

(d) (i) Without any further election or consent of property owners or registered voters, a public infrastructure district may convert a limited tax bond described in Subsection (3)(a) to a general obligation bond if the principal amount of the related limited tax bond together with the principal amount of other related outstanding general obligation bonds of the public infrastructure district does not exceed 15% of the fair market value of taxable property in the public infrastructure district securing the general obligation bonds, determined by:

(A) an appraisal from an appraiser who is a member of the Appraisal Institute that is addressed to the public infrastructure district or a financial institution; or

(B) the most recent market value of the property from the assessor of the county in which the property is located.

(ii) The consent to the issuance of a limited tax bond described in Subsection (3)(a) is sufficient to meet any statutory or constitutional election requirement necessary for the issuance of the limited tax bond and any general obligation bond to be issued in place of the limited tax bond upon meeting the requirements of this Subsection (3)(d).

(iii) A general obligation bond resulting from a conversion of a limited tax bond under

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this Subsection (3)(d) is not subject to the limitation on general obligation bonds described in Subsection 17B-1-1102(4)(a)(xii).

(e) A public infrastructure district that levies a property tax for payment of debt service on a limited tax bond issued under this section is not required to comply with the notice and hearing requirements of Section 59-2-919 unless the rate exceeds the rate established in:

- (i) Section [~~17B-2a-1209~~] 17D-4-303, except as provided in Subsection (8);
- (ii) the governing document; or
- (iii) the documents relating to the issuance of the limited tax bond.

(4) There is no limitation on the duration of revenues that a public infrastructure district may receive to cover any shortfall in the payment of principal of and interest on a bond that the public infrastructure district issues.

(5) A public infrastructure district is not a municipal corporation for purposes of the debt limitation of Utah Constitution, Article XIV, Section 4.

(6) The board may, by resolution, delegate to one or more officers of the public infrastructure district the authority to:

(a) in accordance and within the parameters set forth in a resolution adopted in accordance with Section 11-14-302, approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;

(b) approve and execute any document relating to the issuance of a bond; and

(c) approve any contract related to the acquisition and construction of the improvements, facilities, or property to be financed with a bond.

(7) (a) Any person may contest the legality of the issuance of a public infrastructure district bond or any provisions for the security and payment of the bond for a period of 30 days after:

(i) publication of the resolution authorizing the bond; or

(ii) publication of a notice of bond containing substantially the items required under Subsection 11-14-316(2).

(b) After the 30-day period described in Subsection (7)(a), no person may bring a lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any reason.

(8) (a) In the event of any statutory change in the methodology of assessment or

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collection of property taxes in a manner that reduces the amounts which are devoted or pledged to the repayment of limited tax bonds, a public infrastructure district may charge a rate sufficient to receive the amount of property taxes or assessment the public infrastructure district would have received before the statutory change in order to pay the debt service on outstanding limited tax bonds.

(b) The rate increase described in Subsection (8)(a) may exceed the limit described in Section 17B-2a-1209.

(c) The public infrastructure district may charge the rate increase described in Subsection (8)(a) until the bonds, including any associated refunding bonds, or other securities, together with applicable interest, are fully met and discharged.

Section 16. Section **17D-4-302**, which is renumbered from Section 17B-2a-1208 is renumbered and amended to read:

~~[17B-2a-1208].~~ **17D-4-302. Fees.**

A public infrastructure district may charge a fee or other charge for an administrative service that the public infrastructure district provides, to pay some or all of the public infrastructure district's:

- (1) costs of acquiring, improving, or extending improvements, facilities, or property; or
- (2) costs associated with the enforcement of a legal remedy.

Section 17. Section **17D-4-303**, which is renumbered from Section 17B-2a-1209 is renumbered and amended to read:

~~[17B-2a-1209].~~ **17D-4-303. Limits on public infrastructure district property tax levy -- Notice requirements.**

(1) The property tax levy of a public infrastructure district, for all purposes, including payment of debt service on limited tax bonds, may not exceed .015 per dollar of taxable value of taxable property in the district.

(2) The limitation described in Subsection (1) does not apply to the levy by the public infrastructure district to pay principal of and interest on a general obligation bond that the public infrastructure district issues.

(3) (a) Within 30 days after the day on which the creating entity adopts the resolution creating the public infrastructure district, the board shall record a notice with the recorder of the county in which property within the public infrastructure district is located.

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(b) The notice described in Subsection (3)(a) shall:

(i) contain a description of the boundaries of the public infrastructure district;

(ii) state that a copy of the governing document is on file at the office of the creating entity;

(iii) state that the public infrastructure district may finance and repay infrastructure and other improvements through the levy of a property tax; and

(iv) state the maximum rate that the public infrastructure district may levy.

Section 18. Section **17D-4-304**, which is renumbered from Section 17B-2a-1210 is renumbered and amended to read:

~~[17B-2a-1210]~~. **17D-4-304**. **Property tax penalty for nonpayment.**

In the event of nonpayment of any tax, fee, or charge that a public infrastructure district imposes, the public infrastructure district may impose a property tax penalty at an annual rate of .07, in addition to any other lawful penalty for nonpayment of property tax.

Section 19. Section **17D-4-305**, which is renumbered from Section 17B-2a-1213 is renumbered and amended to read:

~~[17B-2a-1213]~~. **17D-4-305**. **Action to contest tax, fee, or proceeding -- Requirements -- Exclusive remedy -- Bonds, taxes, and fees incontestable.**

(1) A person who contests a tax or fee or any proceeding to create a public infrastructure district, levy a tax, or impose a fee may bring a civil action against the public infrastructure district or the creating entity to:

(a) set aside the proceeding; or

(b) enjoin the levy, imposition, or collection of a tax or fee.

(2) The person bringing an action described in Subsection (1):

(a) shall bring the action in the district court with jurisdiction in the county in which the public infrastructure district is located; and

(b) may not bring the action against or serve a summons relating to the action on the public infrastructure district more than 30 days after the effective date of the:

(i) creation of the public infrastructure district, if the challenge is to the creation of the public infrastructure district; or

(ii) tax or fee, if the challenge is to a tax or fee.

(3) An action under Subsection (1) is the exclusive remedy of a person who:

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(a) claims an error or irregularity in a tax or fee or in any proceeding to create a public infrastructure district, levy a tax, or impose a fee; or

(b) challenges a bondholder's right to repayment.

(4) After the expiration of the 30-day period described in Subsection (2)(b):

(a) a bond issued or to be issued with respect to a public infrastructure district and any tax levied or fee imposed becomes incontestable against any person who has not brought an action and served a summons in accordance with this section;

(b) a person may not bring a suit to:

(i) enjoin the issuance or payment of a bond or the levy, imposition, collection, or enforcement of a tax or fee; or

(ii) attack or question in any way the legality of a bond, tax, or fee; and

(c) a court may not inquire into the matters described in Subsection (4)(b).

(5) (a) This section does not insulate a public infrastructure district from a claim of misuse of funds after the expiration of the 30-day period described in Subsection (2)(b).

(b) (i) Except as provided in Subsection (5)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of funds.

(ii) The limitation in Subsection (5)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of funds.

Section 20. Section **59-2-1317** is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.

(2) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes and tax notice charges; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

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(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) any tax notice charges applicable to the property, including:

(A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30;

(B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

(D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

(E) if applicable, for a local district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest;

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506;

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007; and

(H) if applicable, a property tax penalty that a public infrastructure district imposes, as described in Section [~~17B-2a-1210~~] 17D-4-304;

(viii) if a county's tax notice includes an assessment area charge, a statement that, due to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) the date the taxes and tax notice charges are due;

(x) the street address at which the taxes and tax notice charges may be paid;

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- (xi) the date on which the taxes and tax notice charges are delinquent;
- (xii) the penalty imposed on delinquent taxes and tax notice charges;
- (xiii) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (9);
- (xiv) other information specifically authorized to be included on the notice under this chapter; and
- (xv) other property tax information approved by the commission.

(3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

- (i) the amount constitutes a tax notice charge; and
- (ii) (A) the tax notice charge has the same priority as property tax; and
- (B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59-2-1343.

(4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

(5) Except as provided in Subsection (6), the county treasurer shall:

- (a) mail the notice required by this section, postage prepaid; or
- (b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(6) (a) Subject to the other provisions of this Subsection (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for

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paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (5), until a taxpayer makes a new election in accordance with this Subsection (6), if:

(i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

(9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments, past due local district fees, and other tax notice charges; and

(iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a).

(c) The provisions of this Subsection (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i).

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Section 21. Section **63H-1-102** is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized:

(i) before the year in which the authority creates the project area; or

(ii) before the year in which the project area plan is amended, for property added to a project area by an amendment to a project area plan.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) (a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or

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recreational amenity.

(6) "Development project" means a project to develop land within a project area.

(7) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection

63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(8) "Included municipality" means a municipality, some or all of which is included within a project area.

(9) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.

(10) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.

(11) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

(12) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.

(13) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(14) "Municipal services revenue" means revenue that the authority:

(a) collects from the authority's:

(i) levy of a municipal energy tax;

(ii) levy of a MIDA energy tax;

(iii) levy of a telecommunications tax;

(iv) imposition of a transient room tax; and

(v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2)(b)(ii); and

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(c) receives as dedicated tax collections.

(15) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

(16) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(17) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected property tax allocation expected to be generated within the project area;

(c) the amount of the property tax allocation expected to be shared with other taxing entities;

(d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or

(B) a legal description of the portion of the project area from which the property tax allocation will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

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(18) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.

(19) (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection (19)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" does not include a privilege tax on the taxable value:

(i) attributable to a portion of a facility leased to the military for a calendar year when:

(A) a lessee of military land has constructed a facility on the military land that is part of a project area;

(B) the lessee leases space in the facility to the military for the entire calendar year; and

(C) the lease rate paid by the military for the space is \$1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or

(ii) of the following property owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(A) a hotel;

(B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

(20) "Property tax allocation" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(21) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity.

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(22) (a) "Publicly owned infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that benefit the public, the authority, the military, or military-related entities and are:

(i) publicly owned by the military, the authority, a public infrastructure district under [~~Title 17B, Chapter 2a, Part 12~~] Title 17D, Chapter 4, Public Infrastructure District Act, or another public entity;

(ii) owned by a utility; or

(iii) publicly maintained or operated by the military, the authority, or another public entity.

(b) "Publicly owned infrastructure and improvements" includes:

(i) facilities, lines, or systems that harness geothermal energy or provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, public transportation facilities, and parks, trails, and other recreational facilities;

(iii) snowmaking equipment and related improvements that can also be used for water storage or fire suppression purposes; and

(iv) a building and related improvements for occupancy by the public, the authority, the military, or military-related entities.

(23) "Remaining municipal services revenue" means municipal services revenue that the authority has not:

(a) spent during the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1); or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

(24) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

(25) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(26) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under [~~Title 17B, Chapter 2a, Part 12~~] Title 17D, Chapter 4, Public Infrastructure District Act.

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(27) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(28) "Transient room tax" means a tax under Section 59-12-352.