
*Pocket Guide
For Legislators*



"Politics ought to be the part-time profession of every citizen who would protect the rights and privileges of free men."

Dwight D. Eisenhower

"A popular government without popular information or the means of acquiring it is but a prologue to Farce or Tragedy or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own Governors must arm themselves with the power knowledge gives."

James Madison

"It's appropriate to celebrate public service, and the thoughtful people who choose to serve. They symbolize what is good and decent about this historic citizen legislature, and we thank them."

Robert L. Erlich

Introduction

Thank you for your service as a member of the Utah State Legislature. We honor you for being willing to step into the arena of public service and take on the challenges of governing this great state. We know that you do so at great sacrifice to yourself and your family. We hope that your public service will be successful and enjoyable.

Utah has a wide variety of local districts and special service districts – from small cemetery districts that serve communities of less than 100 people, to large water and sewer districts that serve hundreds of thousands of Utah citizens.

The formation, function, and purposes of these districts are less well understood than those of other governmental entities. For this reason, the Utah Association of Special Districts (UASD) has prepared this Pocket Guide to be an accessible and practical tool for members of the Utah State Legislature.

In addition to the information you will find in this pamphlet, we welcome your questions, concerns, or suggestions and would be happy to assist you regarding any issues related to districts that may arise during your tenure.

Districts Nationally

Special-Purpose Districts or Special District Governments in the United States are usually quasi-independent governmental units that exist separately, and with substantial administrative and fiscal independence from general purpose local governments such as counties, municipalities, and townships. As defined by the U.S. Census Bureau, the term special district governments excludes school districts.

Special district governments provide specific services that are typically not provided by general-purpose governments. The services they provide range from basic needs such as water, sewerage, and fire protection to smaller necessities such as mosquito abatement and upkeep of cemeteries. Nationally, most districts provide only a single service. As of 2008, there were more than 37,000 special district governments throughout the United States.

The Purpose of Districts

Local Districts and Special Service Districts are formed to provide a service that, for one reason or another, is difficult, undesirable, or impossible for another type of governmental entity to provide. For example, a city may not be willing to provide extra-territorial sewer service to a portion of an unincorporated county, and the county may not want to enter the wastewater business or charge its entire population for a service that isn't provided to everyone in its jurisdiction. In these situations, a district can be formed to serve only those properties to be benefitted by the service with corresponding funding coming from those being served.

Another example would include large water systems that provide pipelines, reservoirs, and tanks that serve many cities and counties. A district might be formed to provide services across multiple jurisdictions with corresponding funding mechanisms that can also cross those political boundaries.

What is true for water and sewer also holds true for police, fire, transit, and other services.

History of Districts in Utah

In 1790, the first district was formed in the United States of America for the purpose of providing prison services. In 1898, Utah's first district for library services was formed. As we know them today, the first district in Utah was formed as a drainage district sometime before statehood. Since 1913, the Utah Code has continuously carried specific authorization for the formation of districts.

According to the State Auditor, there are 392 local or special service districts operating in Utah. Approximately one-third are now designated as "special service districts" and two-thirds are designated as "local districts". The distinction will be explained shortly.



After statehood, the following types of districts were created by the Utah Legislature in the corresponding years:

Drainage Districts	1913
Irrigation Districts	1919
Metropolitan Water Districts	1935
Water Conservancy Districts	1941
Cemetery Maintenance Districts	1945
Improvement Districts	pre-1949
Fire Protection Districts	1951
Mosquito Abatement Districts	1953
Service Areas	1957
Public Transit Districts	1969
Special Service Districts	1975



Legislative History

In 1990, the State Legislature created Title 17A of the Utah Code and consolidated much of state law regarding districts into that title. At that time, the term "Special District" was defined by the Legislature to refer to all of the taxing entities that were brought together under Title 17A and became a generic term intended to refer to all of the district types that fell under that title of the statute. Chapter 1 of Title 17A, contained general provisions that were applicable to special districts (often including special service districts), while Chapter 2 of the Code primarily consisted of Acts governing each particular type of independent special district.

Recodification

In the 1990's, the Legislature began a long process of recodifying those sections of the Utah code dealing with Districts. In 2007, the legislature embarked on a massive recodification effort to complete the process. The adoption of H.B. 65 in 2007 repealed Chapter 1 and the bulk of Chapter 2 of Title 17A and the remainder of Title 17A was repealed in 2008 and 2009. UASD worked cooperatively with the Legislature and its staff throughout this lengthy process.

Title 17B

H.B. 65 also created Title 17B Chapters 1 and 2a of the Utah Code. In these sections, uniform definitions were adopted along with uniform provisions governing such things as the appointment and election of local district boards, the powers of those boards, the naming of local districts, long range planning, releasing liens, retaining architects and engineers, nepotism restrictions, a preference for recycled goods, the adoption of impact fee resolutions, publishing district information in local telephone directories, local district property tax parity, validation of previously created districts and the exemption of local district property and assets from taxation. Although renumbered and amended, many of these provisions were carried over from the law in effect prior to H.B. 65.

The term “Special District” was eliminated by H.B. 65, primarily due to confusion over the difference between a “special district” and a “special service district”. The new generic term for all entities that fall under the Title 17B of the Utah Code is “local district”.

Title 17D

The only type of district in Utah that is not a “local district” is a “special service district”. Title 17D Chapter 1 of the Utah Code was created to deal with the creation and administration of special service districts and is known as the “Special Service District Act”.

Through the recodification process, uniform provisions were adopted, to the extent uniformity was possible, in place of corresponding provisions in the various individual Acts of former Title 17A Chapter 2. To the extent uniformity was not feasible, the various Acts were renumbered and, to some degree, amended. H.B. 65 was intended to clean up provisions scattered throughout the Utah Code that used the phrase “special districts” or included a reference to a now repealed or renumbered section of the Code.



Local Districts

Local Districts are independent governmental entities that may be created by cities or counties to provide the following services:

- Airport Operations;
- Cemetery Operations;
- Fire Protection, Paramedic and Emergency Services;
- Garbage Collection and Disposal;
- Health Care (including health department or hospital service);
- Library Operations;
- Mosquito Abatement and Control;
- Parks Operations, Recreational Facilities and Services;
- Sewage System Operations;
- Street Lighting;
- Right-of-way Construction and Maintenance;
- Transportation (including public transit, streets and roads);
- Water Systems Operations;
- Acquisition or Assessment of a Groundwater Right;
- Law Enforcement Services;
- Control or Abatement of Earth Movement or Landslide;

- Animal Control Services.

Within Title 17B, the Utah Code contemplates the following eleven types of **local districts**:

1. Basic Local Districts
– 17B-1-1401
2. Cemetery Maintenance Districts
- 17B-2a-101
3. Drainage Districts
- 17B-2a-201
4. Fire Protection Districts
- 17B-2a-301
5. Improvement Districts
- 17B-2a-401
6. Irrigation Districts
- 17B-2a-501
7. Metropolitan Water Districts
- 17B-2a-601
8. Mosquito Abatement Districts
- 17B-2a-701
9. Public Transit Districts
- 17B-2a-801
10. Service Areas
- 17B-2a-901
11. Water Conservancy Districts
- 17B-2a-1001

Any one of the ten historic district types listed above (numbers 2-11) may be created, or a basic local district (number 1) might be formed. A local district may be formed to provide up to four of the services listed above. The area of any local district does not have to be contiguous.

Each of the historic district types is governed by the uniform statutory provisions in addition to remnants of the original Act for the specific district type, as recodified. Some of the reconstituted Acts have very little left in them, in which case the uniform provisions control most of the activities of the district. For other district types, such as drainage districts, irrigation districts, water conservancy districts and, in particular, public transit districts, there are many remaining statutory provisions that apply just to that district type.



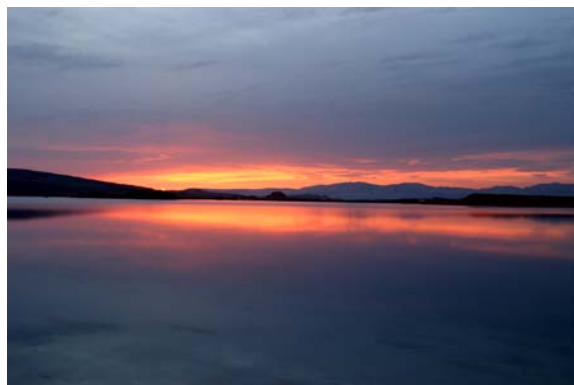
Special Service Districts

A Special Service District created under Title 17D is a hybrid entity in that it is an independent governmental entity, except when it comes to the levy of taxes or assessments, the issuance of debt, or the holding of an election. Those actions must be approved by the governmental entity that created the special service district. In reality, special service districts are still ultimately under the control of their creating entities.

A special service district may be created by a city or a county to provide any combination of the following services:

- Water;
- Sewer;
- Drainage;
- Flood Control;
- Garbage Collection and Disposal;
- Health Care;
- Transportation;
- Recreation;
- Fire Protection (includes emergency medical services, ambulance, search and rescue);
- Correctional and Rehabilitation Facilities;

- Consolidated 911 and Emergency Dispatch;
- Animal Shelter and Control;
- Receipt of Federal Mineral Lease Funds to Mitigate Impacts from Mining;
- Extended Police Protection (in counties of the first class);
- Control or Abatement of Earth Movement or Landslide.



Other Laws Governing Districts

Districts in Utah are also subject to a variety of other Utah laws. Some of the specific provisions under the Code that apply to districts are as follows:

1. Historic Property Protection (indirectly through state approvals)
 - Section 9-8-404
2. Interlocal Cooperation Act
 - Section 11-13-101 et. seq.
3. Local Government Bonding Act
 - Sections 11-14-101 and 17B-1-1101 et. seq.
4. Utah Refunding Bond Act
 - Section 11-27-1 et. seq.
5. Utah Bond Validation Act
 - Section 11-30-1 et. seq.
6. Utah Public Finance Act
 - Section 11-31-1 et. seq.
7. Impact Fees Act
 - Section 11-36a-101 et. seq.
8. Bidding Requirements for Building Improvements and Public Works
 - Section 11-39-101 et. seq.
9. Criminal Background Checks by Political Subdivisions Operating Water Systems
 - Section 11-40-101 et. seq.
10. Assessment Area Act
 - Section 11-42-101 et. seq.

11. Fiscal Procedures for Local Districts Act
– Section 17B-1-601 et. seq.
12. Board Member Training Requirements – Section 17B-1-312
13. Personnel Management
– Section 17B-1-801 et. seq.
14. Statutory Limits on Taxing and Bonding – Sections 17B-1-1002 and -1102(4)
15. “EX” License Plate Use
– Section 41-1a-407.
16. Accounting Reports from Political Subdivisions, Interlocal Organizations, and other Local Entities Act
– Section 51-2a-101 et. seq.
17. Deposit of Funds Due State
– Section 51-4-1 et. seq.
18. State Money Management Act
– Section 51-7-1 et. seq.
19. Anti-Nepotism – Section 52-3-1 et. seq.
20. Open and Public Meetings Act
– Section 52-4-101 et. seq.
21. Reimbursement of Legal Fees and Costs to Officers and Employees Act
– Section 52-6-101 et. seq.

22. Reports and Notices
– Section 52-8-101 et. seq.
23. Property Tax Act (Title 59, Chapter 2, of the Utah Code) particularly Truth in Taxation Requirements
– Section 59-2-919 et. seq.
24. GRAMA (Government Records Access and Management Act)
– Section 63G-2-101 et. seq.
25. Utah Procurement Code – most provisions – Section 63G-6-101 et. seq.
26. Governmental Immunity Act of Utah
– Section 63G-7-101 et. seq.
27. Identity Documents and Verification –
Section 63G-12-302, 401, 402
28. Constitutional Takings Issues Act
– Section 63L-4-101 et. seq.
29. Utah Public Officers' and Employees' Ethics Act
– Section 67-16-1 et. seq.
30. Criminal Offenses Against the Administration of Justice
– Section 76-8-101 et. seq.

How Districts are Created

Local Districts and Special Service Districts can only be created by cities or counties. The process is initiated either by the cities or counties themselves by resolution, or by petition from a group of citizens.

Local Districts

For local districts, a citizen petition to create must be signed by:

- 33% of the private property owners within the proposed district whose property values total at least 25% of the value of all private real property within the proposed district; or
- 33% of the voters within the proposed district who voted in the last general election for Governor.

(A local district can also be created by resolution of the Board of another local district as long as the proposed district is being created to provide one or more components of the same service that the creating district is authorized to provide, but which they are not currently providing.)

Except when a petition is signed by two-thirds of voters, the final step in creating a local district culminates in an election wherein a majority of voters approve the creation.

The resolution or petition to create a local district must contain a description of the proposed boundaries of the district, a map that shows those boundaries, a description of the services to be provided, the type of local district to be created, the anticipated method of paying the costs of providing the service(s), and the number of board members for the proposed district.

If the local district being created is a basic local district, the petition must also state whether the board members will be appointed or elected, and if one or more board members will be elected, the basis of the election, and, if applicable, how the election or appointment of board members will transition over time from one method to another.

In the process of creating a local district, if owners of at least 25% of the total private land area - with value equal to at least 15% of the total value of all real private property in the proposed district - protest the creation, then the cities and/or counties involved in the creation must cease the process of creation. In such cases, the process can begin again after a two year period.

Special Service Districts

For a special service district, a citizen petition to create must be signed by:

- property owners within the proposed district whose property values total at least 10% of the taxable value of all taxable property within the proposed special service district; or
- at least 10% of the registered voters within the proposed special service district.

The resolution or petition to create a special service district must contain a description of the proposed boundaries of the district, a description of the services to be provided, and a proposed name for the district.

For either local districts or special service districts, once the resolution or petition has been adopted and validated, there is a public notice period after which a final resolution creating the district may be adopted by the cities and/or counties involved. Once created, the creation documents are sent to the Lieutenant Governor's office for certification of incorporation.

Governing Boards

Every local or special service district is under the jurisdiction of a governing board. Each Utah district board must have at least three members, but there is no limit on the number of trustees. The regular term for all board members is four years. There are no limits on the number of terms a person may serve.

Board members of local districts must be registered voters residing within the district. (There are exceptions for local districts where seasonal residents comprise more than 50% of the property owners in the district or where a basic local district has less than one home per every 10 acres of land.)

With a few exceptions, Section 17B-1-311 prohibits a trustee from also being an employee of the district. All trustees must take an oath of office and be covered by fidelity bond insurance.

Elected, Appointed, or Hybrid

The resolution or petition that results in the creation of a district dictates whether the board of trustees will be appointed, elected, or a hybrid with some members appointed and others elected.

If board members are to be appointed, the process outlined in Section 17B-1-304 must be followed. Elections for board members are held on municipal election dates and are generally governed by Title 20A, the Election Code. There is no early voting procedure for districts.

Administrative Control Boards

Special service districts are governed by the cities or counties that create them. Those creating entities may, at their discretion, form an Administrative Control Board consisting of appointed, elected - or a combination of appointed and elected – board members. The creating entity may delegate any power to govern the SSD to the Administrative Control Board except for those powers previously mentioned on page 14. The creating entity can also, at any time, recall their powers and dissolve the Administrative Control Board.

Trustees of SSD's or their Administrative Control Boards must either be registered voters residing within the district or officers or employees of the city or county that created it. (There is an exception for districts where over 90% of the residents are not registered voters.)

Compensation

State law permits districts to compensate board members up to \$5,000 per year for their service. In addition, board members may receive per diem compensation, as governed by the rules of the State Division of Finance, for up to 12 extra meetings or activities per year, plus expense reimbursement, plus up to \$100 per day for one training event per-year.

Duties

All powers of a district are exercised through the board of trustees who have the following duties:

- Select and retain competent management;
- establish the district's long and short-term objectives;
- adopt policies to achieve those objectives;
- monitor operations to ensure compliance with laws and policies;
- stay informed regarding changes in law and practices that might affect the district;
- oversee the district's performance in the proper delivery of services;
- Insure that board meetings are conducted as prescribed by law.

Training

Section 52-4-104 directs the presiding officer of a district board to ensure that board members receive annual training on the requirements of The Open and Public Meetings Act.

Section 17B-1-312 prescribes that all new trustees be trained in their duties within the first year of their service. The State Auditor and UASD work together to offer training sessions throughout the year in various locations in the state. UASD considers this training to be one of its primary functions.



Finances

For financial reporting, districts can utilize either a calendar year ending December 31st or a fiscal year ending June 30th. All accounting records must be kept according to generally accepted accounting principles (GAAP). Additionally, funds, accounts, and systems of accounts must also be kept in accordance with the State Auditor's Uniform Accounting Manual for Local Districts. All Utah districts must also comply with the Utah Money Management Act.

Fund Types

It is sometimes difficult to determine what fund types should be used for each type of district. Even in districts of the same type, different structures may be appropriate.

Districts that are financed almost exclusively by property taxes would normally use **governmental** fund types. This would include districts that provide services like police, fire, library, planning, street lighting, flood control, etc. Service areas, special service districts, metropolitan water districts, and others that provide services that are financed with user fees and charges should be accounted for using **enterprise** funds.

Budgets

All districts must adopt a budget after providing public notice and holding a public hearing.

Annual budgets must be presented to the trustees by the first board meeting in November for districts on a calendar year or by the first board meeting in May for districts with fiscal years beginning July 1st. Budgets must be prepared on worksheets provided by the State Auditor. Appropriations cannot exceed estimated expendable revenues. (This means that no property tax can be levied unless there is a budgeted purpose for its use.)

The annual budget must be made available to the public at least 7 days prior to a public hearing wherein the public may make comments to the board concerning the budget. After considering all public comments and making any final adjustments, the board can adopt the budget.

All districts must send their annual budgets to the State Auditor within 30 days of adoption.

Audits

All districts must produce an annual financial report. Section 51-2a-201 of the Utah Code provides that, with the approval of the State Auditor's office, smaller districts may be exempt from the requirement of having its financial statements audited. If a district's revenues or expenditures from all funds exceed \$350,000, an outside certified public accountant must audit the district's books. If revenues or expenditures total more than \$200,000 but less than \$350,000, then a CPA must be employed to *review* the district's financials.

A CPA *compilation* is required if the budget is between \$100,000 and \$200,000. If all revenues or expenditures total less than \$100,000, then the district must only file a financial report on forms provided by the State Auditor.

The annual audit, review, compilation, or fiscal report must be prepared within 180 days of the close of the district's fiscal year. Once this document has been presented to the board, it must be sent to the State Auditor. The annual budgets and audited financial statements are posted on the State Auditor's website and may be found at www.sao.state.ut.us.



Taxes

As outlined in Title 17B-1-1001, each local district that levies a property tax must do so in accordance with the State's Property Tax Act found in Title 59 Chapter 2 of the Utah Code. Such property tax cannot exceed the certified rate unless one of the following applies:

- the property tax revenue was pledged for bond repayment prior to January 1, 2011;
- the majority of the board of trustees are elected officials;
- the property tax has been approved by the majority of voters at an election;
- the property tax has been approved by the legislative body of the majority of municipalities within the district or the county within which the district is located.

(Some exceptions apply to water conservancy districts and metropolitan water districts.)

If a district sets a proposed tax rate which exceeds the certified rate, it cannot adopt its final budget until the public hearing specified in Section 59-2-919 has been held.

Special Service Districts can only levy a property tax if the governing body that created the district votes to do so and the tax is approved by a majority of voters. In these cases, the governing body must also abide by Utah's Property Tax Act, including truth-in-taxation provisions.

All districts are subject to limitations on property taxes imposed to pay for operations and maintenance. The following limits are calculated as a percentage of taxable value:

1. .0008 basic local districts
2. .0004 cemetery maintenance districts
3. .0004 drainage districts
4. .0008 fire protection districts
5. .0008 improvement districts
6. .0005 metropolitan water districts
7. .0004 mosquito abatement districts
8. .0004 public transit districts
9. .0023 service areas in 1st class counties providing fire, paramedic or emergency

10. .0014 all other service areas
11. The schedule found in 17B-2a-1006 of the Utah Code for Water Conservancy Districts.

Impact Fees

If a district desires to impose an impact fee, it must comply with Title 11 Chapter 36 of the Utah Code and do the following:

- prepare and pass a resolution calling for the impact fee;
- conduct an impact fee study to determine the appropriate amount of such a fee;
- providing public notice of the possible fee 14 days before a public hearing;
- holding a public hearing to take comment regarding the proposed impact fee.

Fees and Charges

Districts may set fees and charges for the services they provide. If a district provides more than one service, it may combine the fees and charges into a single bill. A district may suspend furnishing a service to a customer if the customer fails to pay all fees or charges when due.

Bonding

Districts must comply with the Local Government Bonding Act in order to issue any type of bonded indebtedness. Section 11-14-310 (3)(b) limits general obligation bonds to a percentage of the fair market value of all taxable property within the district. Those limits are broken down by district type as shown below:

1. .05, for a basic local district;
2. .004, for a cemetery maintenance district;
3. .002, for a drainage district;
4. .004, for a fire protection district;
5. .024, for an improvement district;
6. .1, for an irrigation district;
7. .1, for a metropolitan water district;
8. .0004, for a mosquito abatement district;
9. .03, for a public transit district; or
10. .12, for a service area.

Other

Liability insurance is required for all districts with budgets in excess of \$50,000.

A district's property and assets are exempt from state and local taxes except for certain exactions. All districts must comply with most of the Utah Procurement Code as found in Section 63G-6-104 and must adopt and implement formal purchasing policies and procedures.



Safety and Public Health

Many districts are involved in delivering services that are vital to the health and well-being of the citizens of our state. They take seriously the charge to protect the citizenry, the environment, and their facilities from anything that threatens them. These threats take many forms, from breaks in water and sewer lines, water contamination, water quality and conservation, misuse of chemicals and pesticides, to vandalism and potential terrorism.

Through their many professional associations, Utah's districts implement a variety of safety measures and practices to ensure that these threats are being monitored and addressed. State and federal regulations also govern many of the practices with which districts must comply. These districts have rigorous training programs and sophisticated safety programs in place. UASD supports these efforts and provides an additional forum for the exchange of information and programs used to comply with state and federal standards and address the various threats.

UASD

Mission

The Utah Association of Special Districts was formed in 1989 and is dedicated to advocating for and strengthening district governance by providing services and support to its members. UASD is the only statewide association representing all types of districts. Membership in UASD is voluntary. Currently, UASD claims 162 districts as members.

Through membership in UASD, local and special service districts take an active role in monitoring their own membership: educating board members, management, and the public regarding the functions of districts and the Utah law that governs them. By means of an active and extensive training program, UASD works to prevent problems that otherwise seem to end up at the door of the Legislature. This is especially true for the many smaller districts in Utah that may be run by boards and management that have little time or resources to seek out this information on their own.

UASD also helps cities and counties understand the legal issues surrounding the formation and operation of local and special service districts, and often assists cities and counties in resolving problems with district boards, management, or the public.

The Board and the Executive Director also stay abreast of trends and federal legislation. Many districts participate in national associations that focus on specific services provided to the public.

Legislative Efforts

UASD also provides a coordinated voice for Utah's districts on Capitol Hill. UASD members receive access to legislative advocacy and analysis of proposed legislation that may affect a district's management and operations. UASD's legislative efforts are always issue-based. We make no political contributions and wish to cooperate with all participants in the legislative process.

Organization

UASD is governed by a Board of 15 Trustees comprised of representatives of member districts. In addition, four ex-officio members serve on the board. They generally represent professionals who bring legal, financial, or technical expertise to the Board.

Four Executive Officers are selected from the Board of Trustees to serve two-year terms as Chair, First Vice-Chair, Second Vice-Chair, and Immediate Past-Chair. A Secretary-Treasurer functions as a board officer and is appointed by the Board. The Board also hires a full-time Executive Director to carry out its mission on a day-to-day basis. The Executive Director also serves as a non-voting ex-officio board member, and as a member of the Executive Committee. The current Executive Director is Mr. LeGrand Bitter.

Funding

UASD collects annual dues from its member districts and associate members. The dues are calculated based on the size of the member district's annual budget. The annual budget for UASD for fiscal year 2011 was approximately \$325,000.

Annual Convention

Each November, UASD holds a two-day annual convention to further accomplish its mission. Both management and board members are encouraged to participate. Speakers address topics that educate attendees concerning Statutory requirements, legal procedures, common problems, accounting and finance, operational issues, and changes in the law.

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UASD's website may be found at
www.uasd.org

Notes

"Americans of all ages, all stations in life, and all types of disposition are forever forming associations. There are not only commercial and industrial associations in which all take part, but others of a thousand different types - religious, moral, serious, futile, very general and very limited, immensely large and very minute...."

"At the head of any new undertaking, where in France you would find the government or in England some territorial magnate, in the United States you are sure to find an association."

Alexis de Tocqueville

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