

**UTAH HOUSING CORPORATION AMENDMENTS**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Ron Bigelow**

**This act modifies the Community and Economic Development Code and other code provisions by making conforming amendments of the change in name of the Utah Housing Finance Agency to the Utah Housing Corporation. This act provides an effective date.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

- 9-4-503**, as last amended by Chapters 194 and 243, Laws of Utah 1996
- 9-4-706**, as last amended by Chapter 265, Laws of Utah 1994
- 9-4-1203**, as renumbered and amended by Chapter 30, Laws of Utah 1997
- 10-9-307**, as last amended by Chapter 117, Laws of Utah 1998
- 11-37-101**, as last amended by Chapter 76, Laws of Utah 1999
- 17-27-307**, as last amended by Chapter 117, Laws of Utah 1998
- 35A-3-103**, as last amended by Chapter 1, Laws of Utah 1998
- 35A-3-309**, as renumbered and amended by Chapter 174, Laws of Utah 1997
- 51-5-4.5**, as enacted by Chapters 4 and 5, Laws of Utah 1985, First Special Session
- 51-7-2**, as last amended by Chapter 222, Laws of Utah 2000
- 51-7-4**, as last amended by Chapter 222, Laws of Utah 2000
- 59-7-607**, as last amended by Chapter 205, Laws of Utah 2000
- 59-10-129**, as last amended by Chapter 205, Laws of Utah 2000
- 61-2c-105**, as enacted by Chapter 329, Laws of Utah 2000
- 63-5b-102**, as last amended by Chapter 222, Laws of Utah 2000
- 63-38-9.5**, as last amended by Chapter 60, Laws of Utah 1990
- 63-38a-102**, as last amended by Chapter 222, Laws of Utah 2000
- 63-55-209**, as last amended by Chapters 1, 32 and 139, Laws of Utah 2000
- 63-56-5**, as last amended by Chapter 86, Laws of Utah 2000
- 63-95-102**, as last amended by Chapters 210 and 222, Laws of Utah 2000

**63-95-203**, as last amended by Chapter 9, Laws of Utah 2001

**63A-1-113**, as renumbered and amended by Chapter 212, Laws of Utah 1993

**63E-1-102 (Effective 07/01/02)**, as enacted by Chapter 201, Laws of Utah 2001

**63E-1-203 (Effective 07/01/02)**, as enacted by Chapter 201, Laws of Utah 2001

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

Section 1. Section **9-4-503** is amended to read:

**9-4-503. Private Activity Bond Review Board.**

(1) There is created within the department the Private Activity Bond Review Board, composed of ten members as follows:

(a) four ex officio members who shall be:

(i) the executive director of the department or his designee;

(ii) the state treasurer or his designee;

(iii) the chair of the Board of Regents or his designee; and

(iv) the chair of the Utah Housing ~~[Finance Agency]~~ Corporation or his designee; and

(b) six local government members who shall be:

(i) three elected or appointed county officials, nominated by the Utah Association of Counties and appointed by the governor with the advice and consent of the Senate; and

(ii) three elected or appointed municipal officials, nominated by the Utah League of Cities and Towns and appointed by the governor with the advice and consent of the Senate.

(2) (a) Except as required by Subsection (2)(b), the terms of office for the local government members of the board of review shall be four-year terms.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Members may be reappointed only once.

(3) (a) If a local government member ceases to be an elected or appointed official of the city or county he is appointed to represent, his membership on the board of review shall terminate immediately and there shall be a vacancy in the membership.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed within 30 days in the manner of the regular appointment for the unexpired term, and until his successor is appointed and qualified.

(4) The chair of the board of review shall be the executive director of the department or his designee. The chair shall be nonvoting except in the case of a tie vote.

(5) Five members of the board of review constitute a quorum.

(6) Formal action by the board of review shall be by majority vote of a quorum.

(7) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the board at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

(d) (i) Higher education members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties from the committee at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Higher education members may decline to receive per diem and expenses for their service.

(8) The chair of the board of review shall serve as the state official designated under state law to make certifications required to be made under Section 146 of the code including, without limitation, the certification required by Section 149(e)(2)(F) of the code.

Section 2. Section **9-4-706** is amended to read:

**9-4-706. Entities authorized to receive fund moneys.**

The executive director, with the approval of the board, may grant or lend fund moneys to housing sponsors. "Housing sponsor" includes a person who constructs, develops, rehabilitates, purchases, or owns a housing development that is or will be subject to legally enforceable restrictive covenants that require the housing development to provide, at least in part, residential housing to low and moderate income persons. A housing sponsor includes:

- (1) a local public body;
- (2) a nonprofit, limited profit, or for profit corporation;
- (3) a limited partnership;
- (4) a limited liability company;
- (5) a joint venture;
- (6) a subsidiary of the Utah Housing [~~Finance Agency~~] Corporation or any subsidiary of the subsidiary of the Utah Housing Finance Agency;
- (7) a cooperative;
- (8) a mutual housing organization;
- (9) a local government;
- (10) a local housing authority;
- (11) a regional or statewide nonprofit housing or assistance organization; or
- (12) any other type of entity or arrangement that helps provide affordable housing for low and moderate income persons.

Section 3. Section **9-4-1203** is amended to read:

**9-4-1203. Division -- Functions.**

- (1) In addition to any other functions the governor or Legislature may assign:
- (a) the division shall:
- (i) provide a clearinghouse of information for federal, state, and local housing assistance programs;
- (ii) establish, in cooperation with political subdivisions, model plans and management methods to encourage or provide for the development of affordable housing that may be adopted by political subdivisions by reference;
- (iii) undertake, in cooperation with political subdivisions, a realistic assessment of problems relating to housing needs, such as:
- (A) inadequate supply of dwellings;
- (B) substandard dwellings; and
- (C) inability of medium and low income families to obtain adequate housing;
- (iv) provide the information obtained under Subsection (1)(a)(iii) to:
- (A) political subdivisions;
- (B) real estate developers;
- (C) builders;
- (D) lending institutions;
- (E) affordable housing advocates; and
- (F) others having use for the information;
- (v) advise political subdivisions of serious housing problems existing within their jurisdiction that require concerted public action for solution; and
- (vi) assist political subdivisions in defining housing objectives and in preparing for adoption a plan of action covering a five-year period designed to accomplish housing objectives within their jurisdiction; and
- (b) within legislative appropriations, the division may accept for and on behalf of, and bind the state to, any federal housing or homeless program in which the state is invited, permitted, or authorized to participate in the distribution, disbursement, or administration of any funds or service advanced, offered, or contributed in whole or in part by the federal government.

(2) The administration of any federal housing program in which the state is invited, permitted, or authorized to participate in distribution, disbursement or administration of funds or services, except those administered by the Utah Housing [~~Finance Agency~~] Corporation, is governed by Sections 9-4-701 through 9-4-708.

Section 4. Section **10-9-307** is amended to read:

**10-9-307. Plans for moderate income housing.**

(1) The availability of moderate income housing is an issue of statewide concern. To this end:

(a) municipalities should afford a reasonable opportunity for a variety of housing, including moderate income housing, to meet the needs of people desiring to live there; and

(b) moderate income housing should be encouraged to allow persons with moderate incomes to benefit from and to fully participate in all aspects of neighborhood and community life.

(2) As used in this section:

(a) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the metropolitan statistical area for households of the same size.

(b) "Plan for moderate income housing" or "plan" means a written document adopted by a municipal legislative body that includes:

(i) an estimate of the existing supply of moderate income housing located within the municipality;

(ii) an estimate of the need for moderate income housing in the municipality for the next five years as revised annually;

(iii) a survey of total residential zoning;

(iv) an evaluation of how existing zoning densities affect opportunities for moderate income housing; and

(v) a description of the municipality's program to encourage an adequate supply of moderate income housing.

(3) Before December 31, 1998, each municipal legislative body shall, as part of its general

plan, adopt a plan for moderate income housing within that municipality.

(4) A plan may provide moderate income housing by any means or combination of techniques which provide a realistic opportunity to meet estimated needs. The plan may include an analysis of why the means or techniques selected provide a realistic opportunity to meet the objectives of this section. Such techniques may include:

(a) rezoning for densities necessary to assure the economic viability of inclusionary developments, either through mandatory set asides or density bonuses;

(b) infrastructure expansion and rehabilitation that will facilitate the construction of moderate income housing;

(c) rehabilitation of existing uninhabitable housing stock;

(d) consideration of waiving construction related fees generally imposed by the municipality;

(e) utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(f) utilization of programs offered by the Utah Housing ~~[Finance Agency]~~ Corporation within that agency's funding capacity; and

(g) utilization of affordable housing programs administered by the Department of Community and Economic Development.

(5) (a) After adoption of a plan for moderate income housing under Subsection (3), the legislative body of each city that is located within a county of the first or second class and of each other city with a population over 10,000 shall annually:

(i) review the plan and its implementation; and

(ii) prepare a report setting forth the findings of the review.

(b) Each report under Subsection (5)(a)(ii) shall include a description of:

(i) efforts made by the municipality to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;

(ii) actions taken by the municipality to encourage preservation of existing moderate income housing and development of new moderate income housing;

(iii) progress made within the municipality to provide moderate income housing, as

measured by permits issued for new units of moderate income housing; and

(iv) efforts made by the municipality to coordinate moderate income housing plans and actions with neighboring municipalities.

(c) The legislative body of each city that is located within a county of the first or second class and of each other city with a population over 10,000 shall send a copy of the report under Subsection (5)(a)(ii) to the Department of Community and Economic Development and the association of governments in which the municipality is located.

Section 5. Section **11-37-101** is amended to read:

**11-37-101. Definition -- Procurement -- Use of recycled goods.**

(1) "Local government entity" means:

- (a) municipalities, cities, and counties;
- (b) entities created under Title 26A, Chapter 1, Local Health Department; and
- (c) political subdivisions created by cities or counties, including entities created under:
  - (i) Title 11, Chapter 13, Interlocal Cooperation Act;
  - (ii) Title 9, Chapter 4, Part 9, Utah Housing [~~Finance Agency~~] Corporation Act; and
  - (iii) Title 9, Chapter 13, Utah Technology and Small Business Finance Act.

(2) The procurement officer or other person responsible for purchasing supplies for each local government entity shall:

(a) maintain for reference a copy of the current listing of recycled items available on state contract as issued by the chief procurement officer under Section 63-56-9; and

(b) give recycled items consideration when inviting bids and purchasing supplies.

Section 6. Section **17-27-307** is amended to read:

**17-27-307. Plans for moderate income housing.**

(1) The availability of moderate income housing is an issue of statewide concern. To this end:

(a) counties should afford a reasonable opportunity for a variety of housing, including moderate income housing, to meet the needs of people desiring to live there; and

(b) moderate income housing should be located in all areas of a community to allow persons

with moderate incomes to benefit from and to fully participate in all aspects of neighborhood and community life.

(2) As used in this section:

(a) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the county statistical area for households of the same size.

(b) "Plan for moderate income housing" or "plan" means a written document adopted by a county legislative body that includes, but is not limited to:

(i) an estimate of the existing supply of moderate income housing located within the county;

(ii) an estimate of the need for moderate income housing in that county for the next five years as revised annually;

(iii) a survey of total residential zoning;

(iv) an evaluation of how existing zoning densities affect opportunities for moderate income housing; and

(v) a description of the county's program to encourage an adequate supply of moderate income housing.

(3) Before December 31, 1998, each county legislative body shall, as part of its general plan, adopt a plan for moderate income housing within the unincorporated areas of that county.

(4) A plan may provide for moderate income housing by any means or combination of techniques which provide a realistic opportunity to meet estimated needs. The plan may include an analysis of why the means or techniques selected provide a realistic opportunity to meet the objectives of this section. Such techniques may include:

(a) rezoning for densities necessary to assure the economic viability of inclusionary developments, either through mandatory set asides or density bonuses;

(b) infrastructure expansion and rehabilitation that will facilitate the construction of moderate income housing;

(c) rehabilitation of existing uninhabitable housing stock;

(d) consideration of waiving construction related fees generally imposed by the county;

(e) utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(f) utilization of programs offered by the Utah Housing [~~Finance Agency~~] Corporation within that agency's funding capacity; and

(g) utilization of affordable housing programs administered by the Department of Community and Economic Development.

(5) (a) After adoption of a plan for moderate income housing under Subsection (3), the legislative body of each county with a population over 25,000 shall annually:

(i) review the plan and its implementation; and

(ii) prepare a report setting forth the findings of the review.

(b) Each report under Subsection (5)(a)(ii) shall include a description of:

(i) efforts made by the county to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;

(ii) actions taken by the county to encourage preservation of existing moderate income housing and development of new moderate income housing;

(iii) progress made within the county to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and

(iv) efforts made by the county to coordinate moderate income housing plans and actions with neighboring counties.

(c) The legislative body of each county with a population over 25,000 shall send a copy of the report under Subsection (5)(a)(ii) to the Department of Community and Economic Development and the association of governments in which the county is located.

Section 7. Section **35A-3-103** is amended to read:

**35A-3-103. Division responsibilities.**

The division shall:

(1) administer public assistance programs assigned by the Legislature and the governor;

(2) determine eligibility in accordance with the requirements of this chapter for public assistance programs assigned to it by the Legislature or the governor;

- (3) cooperate with the federal government in the administration of public assistance programs;
- (4) administer the Utah state employment service in accordance with Section 35A-3-115;
- (5) provide for the compilation of necessary or desirable information, statistics, and reports;
- (6) perform any other duties and functions required by law;
- (7) monitor the application of eligibility policy;
- (8) develop personnel training programs for more effective and efficient operation of all programs under the administration of the division;
- (9) provide refugee resettlement services;
- (10) provide child care assistance for children; and
- (11) provide services and support that enable clients to qualify for affordable housing in cooperation with:
  - (a) the Utah Housing ~~[Finance Agency]~~ Corporation;
  - (b) the Division of Community Development within the Department of Community and Economic Development; and
  - (c) local housing authorities.

Section 8. Section **35A-3-309** is amended to read:

**35A-3-309. Information regarding home ownership.**

The division shall provide information and service coordination to assist a client to occupy affordable housing. The information and services may include:

- (1) information from the Utah Housing ~~[Finance Agency]~~ Corporation and the Division of Community Development within the Department of Community and Economic Development regarding special housing programs, including programs for first-time home buyers and persons with low and moderate incomes and the eligibility requirements for those programs;
- (2) referrals to programs operated by volunteers from the real estate industry that assist clients in obtaining affordable housing, including information on home ownership, down payments, closing costs, and credit requirements; and
- (3) referrals to housing programs operated by municipalities, counties, local housing

authorities, and nonprofit housing organizations that assist individuals to obtain affordable housing, including first-time home ownership.

Section 9. Section **51-5-4.5** is amended to read:

**51-5-4.5. Housing Corporation and Technology Finance Corporation exempt.**

The Utah Housing [~~Finance Agency~~] Corporation and the Utah Technology Finance Corporation are exempt from this chapter.

Section 10. Section **51-7-2** is amended to read:

**51-7-2. Exemptions from chapter.**

The following funds are exempt from this chapter:

- (1) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1954, as amended;
- (2) funds of the Workers' Compensation Fund;
- (3) funds of the Utah State Retirement Board;
- (4) funds of the Utah Technology Finance Corporation; and
- (5) funds of the Utah Housing [~~Finance Agency~~] Corporation.

Section 11. Section **51-7-4** is amended to read:

**51-7-4. Transfer of functions, powers, and duties relating to public funds to state treasurer -- Exceptions -- Deposit of income from investment of state money.**

(1) Unless otherwise required by the Utah Constitution or applicable federal law, the functions, powers, and duties vested by law in each and every state officer, board, commission, institution, department, division, agency, and other similar instrumentalities relating to the deposit, investment, or reinvestment of public funds, and the purchase, sale, or exchange of any investments or securities of or for any funds or accounts under the control and management of these instrumentalities, are transferred to and shall be exercised by the state treasurer, except:

- (a) funds assigned to the Utah State Retirement Board for investment under Section 49-1-302;
- (b) funds of member institutions of the state system of higher education:

- (i) acquired by gift, devise, or bequest, or by federal or private contract or grant;
- (ii) derived from student fees or from income from operations of auxiliary enterprises, which fees and income are pledged or otherwise dedicated to the payment of interest and principal of bonds issued by such institutions; and
- (iii) any other funds which are not included in the institution's work program as approved by the State Board of Regents;
- (c) funds of the Utah Technology Finance Corporation;
- (d) inmate funds as provided in Section 64-13-23 or in Title 64, Chapter 9b, Work Programs for Prisoners;
- (e) trust funds established by judicial order;
- (f) funds of the Workers' Compensation Fund; and
- (g) funds of the Utah Housing ~~[Finance Agency]~~ Corporation.

(2) All public funds held or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, or similar instrumentalities and not transferred to the state treasurer as provided by this section shall be:

- (a) deposited and invested by the custodian in accordance with this chapter, unless otherwise required by statute or by applicable federal law; and
  - (b) reported to the state treasurer in a form prescribed by the state treasurer.
- (3) Unless otherwise provided by the constitution or laws of this state or by contractual obligation, the income derived from the investment of state money by the state treasurer shall be deposited in and become part of the General Fund.

Section 12. Section **59-7-607** is amended to read:

**59-7-607. Utah low-income housing tax credit.**

(1) As used in this section:

~~[(b)]~~ (a) "Allocation certificate" means:

- (i) the certificate prescribed by the tax commission and issued by the ~~[agency]~~ Utah Housing Corporation to each taxpayer that specifies the percentage of the annual federal low-income housing tax credit that each taxpayer may take as an annual credit against state income tax; or

(ii) a copy of the allocation certificate that the housing sponsor provides to the taxpayer.

~~[(e)]~~ (b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

~~[(a)]~~ "Agency" means the Utah Housing Finance Agency.]

~~[(d)]~~ (c) "Federal low-income housing tax credit" means the credit under Section 42, Internal Revenue Code.

~~[(e)]~~ (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership in the case of a partnership, a corporation in the case of an S corporation, or a limited liability company in the case of a limited liability company.

~~[(f)]~~ (e) "Qualified allocation plan" means the qualified allocation plan adopted by the ~~[agency]~~ Utah Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

~~[(g)]~~ (f) "Special low-income housing tax credit certificate" means a certificate:

- (i) prescribed by the tax commission;
- (ii) that a housing sponsor issues to a taxpayer for a taxable year; and
- (iii) that specifies the amount of credit a taxpayer may claim under this section if the taxpayer meets the requirements of this section.

~~[(h)]~~ (g) "Taxpayer" means the person entitled to the tax credit provided under this section which is the corporation in the case of a C corporation, the partners in the case of a partnership, the shareholders in the case of an S corporation, and the members in the case of a limited liability company.

(2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against taxes otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain ~~[Taxpayers]~~ Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for taxpayers issued an allocation certificate.

(b) The credit shall be in an amount equal to the greater of the amount of:

- (i) federal low-income housing tax credit to which the taxpayer is entitled during that year multiplied by the percentage specified in an allocation certificate issued by the ~~[agency]~~ Utah Housing Corporation; or

(ii) credit specified in the special low-income housing tax credit certificate that the housing sponsor issues to the taxpayer as provided in Subsection (2)(c).

(c) For purposes of Subsection (2)(b)(ii), the credit is equal to the product of:

(i) the total amount of low-income housing tax credit under this section that:

(A) a housing sponsor is allowed for a building; and

(B) all of the taxpayers may claim with respect to the building if the taxpayers meet the requirements of this section; and

(ii) the percentage of credit a taxpayer may claim:

(A) under this section if the taxpayer meets the requirements of this section; and

(B) as provided in the agreement between the taxpayer and the housing sponsor.

(d) (i) For the calendar year beginning on January 1, 1995, through the calendar year beginning on January 1, 2005, the aggregate annual tax credit which the [agency] Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-10-129 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) By October 1, 1994, the [agency] Utah Housing Corporation shall determine criteria and procedures for allocating the credit under this section and Section 59-10-129 and incorporate the criteria and procedures into the [agency's] Utah Housing Corporation's qualified allocation plan.

(b) The [agency] Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in the residential housing development of which the building is a part;

(ii) the level of area median income being served by the development;

(iii) the need for the credit for the economic feasibility of the development; and

(iv) the extended period for which the development commits to remain as affordable

housing.

(4) (a) Any housing sponsor that has received an allocation of the federal low-income housing tax credit and any applicant for an allocation of the federal low-income housing credit may apply to the [agency] Utah Housing Corporation for a credit under this section.

(b) The [agency] Utah Housing Corporation may not require fees for applications of the credit under this section in addition to those fees required for applications for the federal low-income housing credit.

(5) (a) The [agency] Utah Housing Corporation shall determine the amount of the credit to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the [agency] Utah Housing Corporation.

(b) (i) The [agency] Utah Housing Corporation shall allocate the credit to housing sponsors by issuing an allocation certificate to qualifying housing sponsors.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed percentage of the federal low-income credit as determined by the [agency] Utah Housing Corporation.

(c) The percentage specified in an allocation certificate may not exceed 100% of the federal low-income housing tax credit.

(6) If a partnership, an S corporation, or a limited liability company qualifies for the credit provided in this section as a housing sponsor, it shall provide a copy of the allocation certificate to the taxpayers of the entity.

(7) A taxpayer shall attach a copy of the allocation certificate to any return upon which a credit is claimed under this section.

(8) (a) All elections made by the taxpayer pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a taxpayer is required to recapture a portion of any federal low-income housing tax credit, the taxpayer shall also be required to recapture a portion of any state credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state credit that equals the proportion the federal recapture amount bears to the original federal low-income housing tax

credit amount subject to recapture.

(9) (a) Any credits returned to the [agency] Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Credits that are unallocated by the [agency] Utah Housing Corporation in any year may be carried over for allocation in the subsequent year.

(10) (a) Amounts otherwise qualifying for the credit, but not allowable because the credit exceeds the tax, may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover credits under Subsection (10)(a) shall be applied against the tax before the application of the credits earned in the current year and on a first-earned first-used basis.

(11) Any credit taken in this section may be subject to an annual audit by the commission.

(12) The [agency] Utah Housing Corporation shall provide an annual report to the Revenue and Taxation Interim Committee which shall include at least:

(a) the purpose and effectiveness of the exemption; and

(b) the benefits of the exemption to the state.

(13) The tax commission may, in consultation with the [agency] Utah Housing Corporation, promulgate rules to implement this section and Section 59-10-129.

Section 13. Section **59-10-129** is amended to read:

**59-10-129. Utah low-income housing tax credit.**

(1) As used in this section:

~~[(b)]~~ (a) "Allocation certificate" means:

(i) the certificate prescribed by the tax commission and issued by the [agency] Utah Housing Corporation to each taxpayer that specifies the percentage of the annual federal low-income housing tax credit that each taxpayer may take as an annual credit against state income tax; or

(ii) a copy of the allocation certificate that the housing sponsor provides to the taxpayer.

~~[(c)]~~ (b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

~~[(a) "Agency" means the Utah Housing Finance Agency.]~~

~~[(d)]~~ (c) "Federal low-income housing tax credit" means the credit under Section 42, Internal Revenue Code.

~~[(e)]~~ (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership in the case of a partnership, a corporation in the case of an S corporation, or a limited liability company in the case of a limited liability company.

~~[(f)]~~ (e) "Qualified allocation plan" means the qualified allocation plan adopted by the ~~[agency]~~ Utah Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

~~[(g)]~~ (f) "Special low-income housing tax credit certificate" means a certificate:

- (i) prescribed by the tax commission;
- (ii) that a housing sponsor issues to a taxpayer for a taxable year; and
- (iii) that specifies the amount of a credit a taxpayer may claim under this section if the taxpayer meets the requirements of this section.

~~[(h)]~~ (g) "Taxpayer" means the person entitled to the tax credit provided under this section which is the corporation in the case of a C corporation, the partners in the case of a partnership, the shareholders in the case of an S corporation, and the members in the case of a limited liability company.

(2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against taxes otherwise due under this chapter for taxpayers issued an allocation certificate.

(b) The credit shall be in an amount equal to the greater of the amount of:

(i) federal low-income housing tax credit to which the taxpayer is entitled during that year multiplied by the percentage specified in an allocation certificate issued by the ~~[agency]~~ Utah Housing Corporation; or

(ii) credit specified in the special low-income housing tax credit certificate that the housing sponsor issues to the taxpayer as provided in Subsection (2)(c).

(c) For purposes of Subsection (2)(b)(ii), the credit is equal to the product of:

- (i) the total amount of low-income housing tax credit under this section that:
  - (A) a housing sponsor is allowed for a building; and

(B) all of the taxpayers may claim with respect to the building if the taxpayers meet the requirements of this section; and

(ii) the percentage of credit a taxpayer may claim:

(A) under this section if the taxpayer meets the requirements of this section; and

(B) as provided in the agreement between the taxpayer and the housing sponsor.

(d) (i) For the calendar year beginning on January 1, 1995, through the calendar year beginning on January 1, 2005, the aggregate annual tax credit which the [agency] Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) By October 1, 1994, the [agency] Utah Housing Corporation shall determine criteria and procedures for allocating the credit under this section and Section 59-7-607 and incorporate the criteria and procedures into the [agency's] Utah Housing Corporation's qualified allocation plan.

(b) The [agency] Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in the residential housing development of which the building is a part;

(ii) the level of area median income being served by the development;

(iii) the need for the credit for the economic feasibility of the development; and

(iv) the extended period for which the development commits to remain as affordable housing.

(4) (a) Any housing sponsor that has received an allocation of the federal low-income housing tax credit and any applicant for an allocation of the federal low-income housing credit may apply to the [agency] Utah Housing Corporation for a credit under this section.

(b) The [agency] Utah Housing Corporation may not require fees for applications of the

credit under this section in addition to those fees required for applications for the federal low-income housing credit.

(5) (a) The [agency] Utah Housing Corporation shall determine the amount of the credit to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the [agency] Utah Housing Corporation.

(b) (i) The [agency] Utah Housing Corporation shall allocate the credit to housing sponsors by issuing an allocation certificate to qualifying housing sponsors.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed percentage of the federal low-income credit as determined by the [agency] Utah Housing Corporation.

(c) The percentage specified in an allocation certificate may not exceed 100% of the federal low-income housing tax credit.

(6) If a partnership, an S corporation, or a limited liability company qualifies for the credit provided in this section as a housing sponsor, it shall provide a copy of the allocation certificate to the taxpayers of the entity.

(7) A taxpayer shall attach a copy of the allocation certificate to any return upon which a credit is claimed under this section.

(8) (a) All elections made by the taxpayer pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a taxpayer is required to recapture a portion of any federal low-income housing tax credit, the taxpayer shall also be required to recapture a portion of any state credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state credit that equals the proportion the federal recapture amount bears to the original federal low-income housing tax credit amount subject to recapture.

(9) (a) Any credits returned to the [agency] Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Credits that are unallocated by the [agency] Utah Housing Corporation in any year may be carried over for allocation in the subsequent year.

(10) (a) Amounts otherwise qualifying for the credit, but not allowable because the credit exceeds the tax, may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover credits under Subsection (10)(a) shall be applied against the tax before the application of the credits earned in the current year and on a first-earned first-used basis.

(11) Any credit taken in this section may be subject to an annual audit by the commission.

(12) The ~~[agency]~~ Utah Housing Corporation shall provide an annual report to the Revenue and Taxation Interim Committee which shall include at least:

(a) the purpose and effectiveness of the exemption; and

(b) the benefits of the exemption to the state.

Section 14. Section **61-2c-105** is amended to read:

**61-2c-105. Scope of chapter.**

(1) (a) This chapter applies to a closed-end residential mortgage loan secured by a first lien or equivalent security interest on a dwelling.

(b) This chapter does not apply to a transaction covered by Title 70C, Utah Consumer Credit Code.

(2) The following are exempt from this chapter:

(a) the federal government;

(b) a state;

(c) a political subdivision of a state;

(d) an agency of or entity created by a governmental entity described in Subsections (2)(a) through (c) including:

(i) the Utah Housing ~~[Finance Agency]~~ Corporation created in Title 9, Chapter 4, Part 9, Utah Housing ~~[Finance Agency]~~ Corporation Act;

(ii) the Federal National Mortgage Corporation;

(iii) the Federal Home Loan Mortgage Corporation;

(iv) the Federal Deposit Insurance Corporation;

(v) the Resolution Trust Corporation;

- (vi) the Government National Mortgage Association;
- (vii) the Federal Housing Administration;
- (viii) the National Credit Union Administration;
- (ix) the Farmers Home Administration; and
- (x) the Department of Veterans Affairs;
- (e) a depository institution;
- (f) an affiliate of a depository institution;
- (g) an employee or agent of an entity described in Subsections (2)(a) through (f) when that person acts on behalf of the entity described in Subsections (2)(a) through (f);
- (h) a person:
  - (i) who makes a loan:
    - (A) secured by an interest in real property;
    - (B) with the person's own money; and
    - (C) for the person's own investment; and
  - (ii) that does not engage in the business of making loans secured by an interest in real property;
- (i) a person who receives a mortgage, deed of trust, or lien interest on real property if the person:
  - (i) is the seller of real property; and
  - (ii) receives the mortgage, deed of trust, or lien interest on real property as security for a separate money obligation;
- (j) a person who receives a mortgage, deed of trust, or lien interest on real property if:
  - (i) the person receives the mortgage, deed of trust, or lien interest as security for an obligation payable on an installment or deferred payment basis;
  - (ii) the obligation described in Subsection (2)(j)(i) arises from a person providing materials or services used in the improvement of the real property that is the subject of the mortgage, deed of trust, or lien interest; and
  - (iii) the mortgage, deed of trust, or lien interest was created without the consent of the owner

of the real property that is the subject of the mortgage, deed of trust, or lien interest;

(k) a nonprofit corporation that:

(i) is exempt from paying federal income taxes;

(ii) is certified by the United States Small Business Administration as a small business investment company;

(iii) is organized to promote economic development in this state; and

(iv) has as its primary activity providing financing for business expansion;

(l) a court appointed fiduciary; or

(m) an attorney admitted to practice law in this state:

(i) if the attorney is not principally engaged in the business of negotiating residential mortgage loans; and

(ii) when the attorney renders services in the course of the attorney's practice as an attorney.

(3) (a) Notwithstanding Subsection (2)(m), an attorney exempt from this chapter may not engage in conduct described in Section 61-2c-301 when transacting business of residential mortgage loans.

(b) If an attorney exempt from this chapter violates Subsection (3)(a), the attorney:

(i) is not subject to enforcement by the division under Part 4, Enforcement; and

(ii) is subject to disciplinary action generally applicable to an attorney admitted to practice law in this state.

(c) If the division receives a complaint alleging an attorney exempt from this chapter is in violation of Subsection (3)(a), the division shall forward the complaint to the Utah State Bar for disciplinary action.

Section 15. Section **63-5b-102** is amended to read:

**63-5b-102. Definitions.**

(1) (a) "Absent" means:

(i) not physically present or not able to be communicated with for 48 hours; or

(ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio,

or telecommunications.

(2) "Attack" means a nuclear, conventional, biological, or chemical warfare action against the United States of America or this state.

(3) "Department" means the Department of Administrative Services, the Department of Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of Commerce, the Department of Community and Economic Development, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Department of Human Services, the State Tax Commission, the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the State Board of Regents, the Utah Housing ~~[Finance Agency]~~ Corporation, the Utah Technology Finance Corporation, the Workers' Compensation Fund, the State Retirement Board, and each institution of higher education within the system of higher education.

(4) "Disaster" means a situation causing, or threatening to cause, widespread damage, social disruption, or injury or loss of life or property resulting from attack, internal disturbance, natural phenomenon, or technological hazard.

(5) "Division" means the Comprehensive Emergency Management Division established in Title 53, Chapter 2, ~~[Comprehensive]~~ Emergency Management ~~[Act]~~.

(6) "Emergency interim successor" means a person designated by this chapter to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(7) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(8) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.

(9) "Natural phenomenon" means any earthquake, tornado, storm, flood, landslide, avalanche, forest or range fire, drought, epidemic, or other catastrophic event.

(10) (a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(11) "Place of governance" means the physical location where the powers of an office are being exercised.

(12) "Political subdivision" includes counties, cities, towns, townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(13) "Political subdivision officer" means a person holding an office in a political subdivision.

(14) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

(15) "Technological hazard" means any hazardous materials accident, mine accident, train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

(16) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

Section 16. Section **63-38-9.5** is amended to read:

**63-38-9.5. Agencies exempt from act.**

The Utah Housing [~~Finance Agency~~] Corporation and the Utah Technology Finance Corporation are exempt from this act.

Section 17. Section **63-38a-102** is amended to read:

**63-38a-102. Definitions.**

As used in this chapter:

(1) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau,

panel, or other administrative unit of the state.

(b) "Agency" does not include the legislative branch, the board of regents, the Utah Higher Education Assistance Authority, the board of trustees of each higher education institution, each higher education institution and its associated branches, centers, divisions, institutes, foundations, hospitals, colleges, schools, or departments, a public education entity, or an independent agency.

(2) (a) "Dedicated credits revenues" means revenues from collections by an agency that are deposited directly into an account for expenditure on a separate line item and program.

(b) "Dedicated credits" does not mean:

(i) federal revenues and the related pass through or the related state match paid by one agency to another;

(ii) revenues that are not deposited in governmental funds;

(iii) revenues from any contracts; and

(iv) revenues received by the Attorney General's Office from billings for professional services.

(3) "Fees" means revenue collected by an agency for performing a service or providing a function that the agency deposits or accounts for as dedicated credits or fixed collections.

(4) (a) "Fixed collections revenues" means revenue from collections:

(i) fixed by law or by the appropriation act at a specific amount; and

(ii) required by law to be deposited into a separate line item and program.

(b) "Fixed collections" does not mean:

(i) federal revenues and the related pass through or the related state match paid by one agency to another;

(ii) revenues that are not deposited in governmental funds;

(iii) revenues from any contracts; and

(iv) revenues received by the Attorney General's Office from billings for professional services.

(5) (a) "Governmental fund" means funds used to account for the acquisition, use, and balances of expendable financial resources and related liabilities using a measurement focus that

emphasizes the flow of financial resources.

(b) "Governmental fund" does not include internal service funds, enterprise funds, capital projects funds, debt service funds, or trust and agency funds as established in Section 51-5-4.

(6) "Independent agency" means the Utah State Retirement Office, the Utah Housing ~~[Finance Agency]~~ Corporation, the Utah Technology Finance Corporation, and the Workers' Compensation Fund.

(7) "Program" means the function or service provided by an agency for which the agency collects fees.

(8) "Revenue types" means the categories established by the Division of Finance under the authority of this chapter that classify revenue according to the purpose for which it is collected.

Section 18. Section **63-55-209** is amended to read:

**63-55-209. Repeal dates, Title 9.**

(1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is repealed July 1, 2004.

(2) Title 9, Chapter 2, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

(3) (a) Title 9, Chapter 2, Part 16, Recycling Market Development Zone Act, is repealed July 1, 2010.

(b) Sections 59-7-610 and 59-10-108.7, regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2011.

(c) Notwithstanding Subsection (3)(b), a person may not claim a tax credit under Section 59-7-610 or 59-10-108.7:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-108.7 if the machinery or equipment is purchased on or after July 1, 2010; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-108.7(1)(b), if the expenditure is made on or after July 1, 2010.

(d) Notwithstanding Subsections (3)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-108.7 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-108.7; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-108.7, the machinery or equipment is purchased on or before June 30, 2010; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-108.7(1)(b), the expenditure is made on or before June 30, 2010.

(4) Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is repealed July 1, 2009.

(5) Title 9, Chapter 4, Part 9, Utah Housing [~~Finance Agency~~] Corporation Act, is repealed July 1, 2006.

(6) Title 9, Chapter 13, Utah Technology and Small Business Finance Act, is repealed July 1, 2002.

Section 19. Section **63-56-5** is amended to read:

**63-56-5. Definitions.**

As used in this chapter:

(1) "Architect-engineer services" are those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(2) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

(3) "Change order" means a written order signed by the procurement officer, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the procurement officer to order without the consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

(4) (a) "Construction" means the process of building, renovation, alteration, improvement, or repair of any public building or public work.

(b) "Construction" does not mean the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

(5) (a) "Construction Manager/General Contractor" means any contractor who enters into

a contract for the management of a construction project when that contract allows the contractor to subcontract for additional labor and materials that were not included in the contractor's cost proposal submitted at the time of the procurement of the Construction Manager/General Contractor's services.

(b) "Construction Manager/General Contractor" does not mean a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of construction is to meet subcontracted portions of change orders approved within the scope of the project.

(6) "Contract" means any state agreement for the procurement or disposal of supplies, services, or construction.

(7) "Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit, or by a public procurement unit with an external procurement unit.

(8) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(9) (a) "Design-build" means the procurement of architect-engineer services and construction by the use of a single contract with the design-build provider.

(b) This method of design and construction can include the design-build provider supplying the site as part of the contract.

(10) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is either published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(11) "External procurement unit" means any buying organization not located in this state which, if located in this state, would qualify as a public procurement unit. An agency of the United States is an external procurement unit.

(12) "Grant" means the furnishing by the state or by any other public or private source assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not include an award whose primary purpose is to procure an end product, whether in the form of supplies, services, or construction. A contract resulting from the award is not a grant but a procurement contract.

(13) "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

(14) "Local public procurement unit" means any political subdivision or institution of higher education of the state or public agency of any subdivision, public authority, educational, health, or other institution, and to the extent provided by law, any other entity which expends public funds for the procurement of supplies, services, and construction, but not counties, municipalities, political subdivisions created by counties or municipalities under the Interlocal Cooperation Act, the Utah Housing [~~Finance Agency~~] Corporation, the Utah Technology Finance Corporation, or the Legislature and its staff offices. It includes two or more local public procurement units acting under legislation which authorizes intergovernmental cooperation.

(15) "Person" means any business, individual, union, committee, club, other organization, or group of individuals, not including a state agency or a local public procurement unit.

(16) "Policy board" means the procurement policy board created by Section 63-56-6.

(17) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(18) "Procurement" means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, preparation, and award of a contract, and all phases of contract administration.

(19) "Procurement officer" means any person or board duly authorized to enter into and administer contracts and make written determinations with respect thereto. It also includes an authorized representative acting within the limits of authority.

(20) "Public procurement unit" means either a local public procurement unit or a state public procurement unit.

(21) "Purchase description" means the words used in a solicitation to describe the supplies, services, or construction to be purchased, and includes specifications attached to or made a part of the solicitation.

(22) "Purchasing agency" means any state agency other than the Division of Purchasing and General Services that is authorized by this chapter or its implementing regulations, or by delegation from the chief procurement officer, to enter into contracts.

(23) "Request for proposals" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

(24) "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements and who has the integrity and reliability which will assure good faith performance.

(25) "Responsive bidder" means a person who has submitted a bid which conforms in all material respects to the invitation for bids.

(26) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(27) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. It does not include employment agreements or collective bargaining agreements.

(28) "Specification" means any description of the physical or functional characteristics, or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

(29) "State agency" means any department, division, commission, council, board, bureau, committee, institution, government corporation, or other establishment or official of this state.

(30) "State public procurement unit" means the Division of Purchasing and General Services and any other purchasing agency of this state.

(31) "Supplies" means all property, including equipment, materials, and printing.

(32) "Using agency" means any state agency which utilizes any supplies, services, or construction procured under this chapter.

Section 20. Section **63-95-102** is amended to read:

**63-95-102. Definitions.**

For purposes of this chapter:

(1) "Asset" means property of all kind, real and personal, tangible and intangible, and includes:

- (a) cash, except reasonable compensation or salary for services rendered;
- (b) stock or other investments;
- (c) goodwill;
- (d) real property;
- (e) an ownership interest;
- (f) a license;
- (g) a cause of action; and
- (h) any similar property.

(2) "Authorizing statutes" means the statutes creating an entity as a quasi-governmental entity.

(3) "Business interest" means:

(a) holding the position of trustee, director, officer, or other similar position with a business entity; or

(b) the ownership, either legally or equitably, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity, being held by:

- (i) an individual;
- (ii) the individual's spouse;
- (iii) a minor child of the individual; or
- (iv) any combination of Subsections (3)(b)(i) through (iii).

(4) "Committee" means the Legislative Quasi-Governmental Entities Committee created in Section 63-95-201.

- (5) "Government requestor" means:
- (a) the governor;
  - (b) an executive branch officer other than the governor;
  - (c) an executive branch agency;
  - (d) a legislator, including a legislative sponsor of legislation creating a quasi-governmental entity; or
  - (e) a legislative committee.
- (6) "Interested party" means a person that held or holds the position of trustee, director, officer, or other similar position with a quasi-governmental entity within:
- (a) five years prior to the date of an action described in Subsection (8); or
  - (b) during the privatization of a quasi-governmental entity.
- (7) "Lobbyist" is a person that provided or provides services as a lobbyist, as defined in Section 36-11-102, within:
- (a) five years prior to the date of an action described in Subsection (8); or
  - (b) during the privatization of a quasi-governmental entity.
- (8) (a) "Privatized" means an action described in Subsection (8)(b) taken under circumstances in which the operations of the quasi-governmental entity are continued by a successor entity that:
- (i) is privately owned;
  - (ii) is unaffiliated to the state; and
  - (iii) receives any asset of the quasi-governmental entity.
- (b) An action referred to in Subsection (8)(a) includes:
- (i) the repeal of the authorizing statute of a quasi-governmental entity and the revision to state laws to terminate the relationship between the state and the quasi-governmental entity;
  - (ii) the dissolution of the quasi-governmental entity;
  - (iii) the merger or consolidation of the quasi-governmental entity with another entity; or
  - (iv) the sale of all or substantially all of the assets of the quasi-governmental entity.
- (9) (a) "Quasi-governmental entity" means an entity that:

(i) is created by the state or is given by the state the right to exist and conduct its affairs as a quasi-governmental entity:

(A) to serve a public purpose; and

(B) to meet a need that cannot be met through a private business; and

(ii) is designated by the state as:

(A) an independent state agency;

(B) an independent public corporation;

(C) a quasi-public corporation; or

(D) a term similar to that described in Subsections (9)(a)(ii)(A) through (C).

(b) "Quasi-governmental entity" includes the:

(i) Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

(ii) Utah Technology Finance Corporation created in Title 9, Chapter 13, Utah Technology and Small Business Finance Act;

(iii) Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority;

(iv) Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah Science Center Authority;

(v) Utah Housing [~~Finance Agency~~] Corporation created in Title 9, Chapter 4, Part 9, Utah Housing [~~Finance Agency~~] Corporation Act;

(vi) Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State Fair Corporation Act;

(vii) Workers' Compensation Fund created in Title 31A, Chapter 33, Workers' Compensation Fund;

(viii) Utah State Retirement Office created in Title 49, Chapter 1, Part 2, Retirement Office and Board;

(ix) School and Institutional Trust Lands Administration created in Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration; and

(x) Utah Communications Agency Network created in Title 63C, Chapter 7, Utah

Communications Agency Network Act.

(c) Notwithstanding Subsection (9)(a), "quasi-governmental entity" does not include:

- (i) the Public Service Commission of Utah created in Section 54-1-1;
- (ii) an institution within the state system of higher education;
- (iii) a city, county, or town;
- (iv) a local school district;
- (v) a special district created under the authority of Title 17A, Special Districts; or
- (vi) a local district created under the authority of Title 17B, Limited Purpose Local

Government Entities.

Section 21. Section **63-95-203** is amended to read:

**63-95-203. Exemptions from committee activities.**

Notwithstanding the other provisions of this Part 2 and Subsection 63-95-102(9), the following quasi-governmental entities are exempt from the study by the committee under Section 63-95-202:

(1) the Utah Housing [~~Finance Agency~~] Corporation created in Title 9, Chapter 4, Part 9, Utah Housing Corporation Act; and

(2) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers' Compensation Fund.

Section 22. Section **63A-1-113** is amended to read:

**63A-1-113. Agencies exempt from title.**

The Utah Housing [~~Finance Agency~~] Corporation and the Utah Technology Finance Corporation are exempt from this title.

Section 23. Section **63E-1-102 (Effective 07/01/02)** is amended to read:

**63E-1-102 (Effective 07/01/02). Definitions.**

As used in this title:

(1) "Authorizing statute" means the statute creating an entity as an independent entity.

(2) "Committee" means the Legislative Independent Entities Committee created in Section 63E-1-201.

(3) "Independent corporation" means a corporation incorporated in accordance with Chapter 2, Independent Corporations Act.

(4) (a) "Independent entity" means an entity having a public purpose relating to the state or its citizens that is individually created by the state or is given by the state the right to exist and conduct its affairs as an:

(i) independent state agency; or

(ii) independent corporation.

(b) "Independent entity" includes the:

(i) Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

(ii) Utah Technology Finance Corporation created in Title 9, Chapter 13, Utah Technology and Small Business Finance Act;

(iii) Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority;

(iv) Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah Science Center Authority;

(v) Utah Housing [~~Finance Agency~~] Corporation created in Title 9, Chapter 4, Part 9, Utah Housing [~~Finance Agency~~] Corporation Act;

(vi) Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State Fair Corporation Act;

(vii) Workers' Compensation Fund created in Title 31A, Chapter 33, Workers' Compensation Fund;

(viii) Utah State Retirement Office created in Title 49, Chapter 1, Part 2, Retirement Office and Board;

(ix) School and Institutional Trust Lands Administration created in Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration; and

(x) Utah Communications Agency Network created in Title 63C, Chapter 7, Utah Communications Agency Network Act.

(c) Notwithstanding this Subsection (4), "independent entity" does not include:

- (i) the Public Service Commission of Utah created in Section 54-1-1;
- (ii) an institution within the state system of higher education;
- (iii) a city, county, or town;
- (iv) a local school district;
- (v) a special district created under the authority of Title 17A, Special Districts; or
- (vi) a local district created under the authority of Title 17B, Limited Purpose Local

Government Entities.

(5) "Independent state agency" means an entity that is created by the state, but is independent of the governor's direct supervisory control.

(6) "Monies held in trust" means monies maintained for the benefit of:

- (a) one or more private individuals, including public employees;
- (b) one or more public or private entities; or
- (c) the owners of a quasi-public corporation.

(7) "Public corporation" means an artificial person, public in ownership, individually created by the state as a body politic and corporate for the administration of a public purpose relating to the state or its citizens.

(8) "Quasi-public corporation" means an artificial person, private in ownership, individually created as a corporation by the state which has accepted from the state the grant of a franchise or contract involving the performance of a public purpose relating to the state or its citizens.

Section 24. Section **63E-1-203 (Effective 07/01/02)** is amended to read:

**63E-1-203 (Effective 07/01/02). Exemptions from committee activities.**

Notwithstanding the other provisions of this Part 2 and Subsection 63E-1-102(4), the following independent entities are exempt from the study by the committee under Section 63E-1-202:

- (1) the Utah Housing [~~Finance Agency~~] Corporation created in Title 9, Chapter 4, Part 9, Utah Housing Corporation Act; and
- (2) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers' Compensation Fund.

Section 25. **Effective date.**

This act takes effect on May 6, 2002, except that the amendments to Sections 63E-1-102 (Effective 07/01/02) and 63E-1-203 (Effective 07/01/02) take effect on July 1, 2002.