



30 **63J-7-102**, as enacted by Laws of Utah 2008, Chapter 195

31 ENACTS:

32 **9-3-501**, Utah Code Annotated 1953

33 **9-3-502**, Utah Code Annotated 1953

34 **9-3-503**, Utah Code Annotated 1953

35 **9-3-504**, Utah Code Annotated 1953

36 **9-3-505**, Utah Code Annotated 1953

37 **9-3-506**, Utah Code Annotated 1953

38 **9-3-507**, Utah Code Annotated 1953

39 **9-3-508**, Utah Code Annotated 1953

40 **9-3-509**, Utah Code Annotated 1953

41 **9-3-510**, Utah Code Annotated 1953



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

44 Section 1. Section **9-3-501** is enacted to read:

45 **Part 5. Utah State Railroad Museum Authority**

46 **9-3-501. Title.**

47 This part is known as the "Utah State Railroad Museum Authority."

48 Section 2. Section **9-3-502** is enacted to read:

49 **9-3-502. Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and**  
50 **expenses.**

51 (1) There is created an independent body politic and corporate known as the "Utah  
52 State Railroad Museum Authority," hereafter referred to in this part as "the authority."

53 (2) The authority is composed of 11 members as follows:

54 (a) one member of the county legislative body of Weber County appointed by that  
55 legislative body;

56 (b) two members of the county legislative body of Box Elder County appointed by that  
57 legislative body;

58 (c) the executive director of the Department of Transportation or the director's  
59 designee; and

60 (d) seven public members appointed by the governor, as follows:

61 (i) two individuals representing the tourism industry, one each from Weber and Box  
62 Elder Counties;

63 (ii) one individual representing the public at large; and

64 (iii) four individuals representing railroad historic and heritage preservation  
65 organizations active in Weber and Box Elder Counties, as follows:

66 (A) one individual representing the Railroad and Locomotive Historical Society  
67 Golden Spike Chapter;

68 (B) one individual representing the Golden Spike Heritage Foundation;

69 (C) one individual representing the Golden Spike Association; and

70 (D) one individual representing the Corinne Historical Society.

71 (3) All members shall be residents of the state.

72 (4) (a) Except as required by Subsection (4)(b), the governor shall appoint the seven  
73 public members for four-year terms beginning July 1.

74 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the  
75 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
76 authority members appointed under Subsection (2)(d) are staggered so that approximately  
77 one-half of the seven public members are appointed every two years.

78 (5) Any of the seven public members may be removed from office by the governor or  
79 for cause by an affirmative vote of six members of the authority.

80 (6) When a vacancy occurs in the public membership for any reason, the governor  
81 shall appoint a replacement for the unexpired term.

82 (7) Each public member shall hold office for the term of the member's appointment  
83 and until a successor has been appointed and qualified.

84 (8) A public member is eligible for reappointment, but may not serve more than two  
85 full consecutive terms.

86 (9) The governor shall appoint the chair of the authority from among its members.

87 (10) (a) The members shall elect from among their membership a vice chair and other  
88 officers as they may determine.

89 (b) The officers serve as the executive committee for the authority.

90 (11) The powers of the authority are vested in its members.

91 (12) (a) Six members constitute a quorum for transaction of authority business.

92 (b) An affirmative vote of at least six members is necessary for an action to be taken  
93 by the authority.

94 (13) (a) A member who is not a government employee receives no compensation or  
95 benefits for the member's services, but may receive per diem and expenses incurred in the  
96 performance of the member's official duties at rates established by the Division of Finance  
97 under Sections 63A-3-106 and 63A-3-107.

98 (b) A state government officer or employee member who does not receive salary, per  
99 diem, or expenses from the member's agency for the member's service may receive per diem  
100 and expenses incurred in the performance of official duties from the authority at rates  
101 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

102 (c) A local government member who does not receive salary, per diem, or expenses for  
103 the member's service from the entity that the member represents may receive per diem and  
104 expenses incurred in the performance of the member's official duties at rates established by the  
105 Division of Finance under Sections 63A-3-106 and 63A-3-107.

106 (d) A member may decline to receive per diem and expenses for the member's  
107 services.

108 Section 3. Section **9-3-503** is enacted to read:

109 **9-3-503. Executive director -- Powers and duties.**

110 (1) (a) The members of the authority shall appoint an executive director who is an  
111 employee of the authority, but who is not a member of the authority.

112 (b) The executive director serves at the pleasure of the members and receives  
113 compensation as set by the members and approved by the governor.

- 114           (2) The executive director shall:
- 115           (a) administer, manage, and direct the affairs and activities of the authority in
- 116 accordance with the policies, control, and direction of the members of the authority;
- 117           (b) approve all accounts for allowable expenses of the authority or of any of its
- 118 employees and expenses incidental to the operation of the authority;
- 119           (c) attend meetings of the authority;
- 120           (d) keep a record of the proceedings of the authority;
- 121           (e) maintain and be the custodian of all books, documents, and papers filed with the
- 122 authority;
- 123           (f) document and maintain records concerning ownership of all assets owned or under
- 124 the control of the authority; and
- 125           (g) perform other duties as directed by the members of the authority in carrying out the
- 126 purposes of this part.

127           Section 4. Section **9-3-504** is enacted to read:

128           **9-3-504. Member or employee -- Disclosure of interest.**

129           (1) A member or employee of the authority who has, will have, or later acquires an

130 interest, direct or indirect, in a transaction with the authority shall immediately disclose the

131 nature and extent of that interest in writing to the authority as soon as the individual has

132 knowledge of the actual or prospective interest.

133           (2) The disclosure shall be entered upon the minutes of the authority.

134           (3) After making the disclosure, the member or employee may participate in any

135 action by the authority authorizing the transaction.

136           Section 5. Section **9-3-505** is enacted to read:

137           **9-3-505. Officer or employee -- No forfeiture of office or employment.**

138           Notwithstanding any other provision of law, an officer or employee of this state does

139 not forfeit the office or employment with the state by reason of acceptance of membership on

140 the authority or service on it.

141           Section 6. Section **9-3-506** is enacted to read:

142 **9-3-506. Authority -- Powers.**

143 (1) The authority shall:

144 (a) facilitate or operate and maintain a scenic and historic railroad in and around  
145 Weber and Box Elder Counties;

146 (b) facilitate or operate and maintain one or more railroad history museums in and  
147 around Weber and Box Elder Counties;

148 (c) facilitate the restoration, preservation, and public display of railroad artifacts and  
149 heritage in and around Weber and Box Elder Counties; and

150 (d) facilitate the restoration, preservation, and operation of historically significant  
151 railroad related properties in and around Weber and Box Elder Counties for public benefit.

152 (2) The authority has perpetual succession as a body politic and corporate and may:

153 (a) adopt, amend, and repeal policies and procedures for the regulation of its affairs  
154 and the conduct of its business;

155 (b) sue and be sued in its own name;

156 (c) maintain an office at a place or places it designates within the state;

157 (d) adopt, amend, and repeal bylaws and rules, consistent with this part, to carry into  
158 effect the powers and purposes of the authority and the conduct of its business;

159 (e) purchase, lease, sell, and otherwise dispose of property and rights-of-way;

160 (f) employ experts and other professionals it considers necessary;

161 (g) employ and retain independent legal counsel;

162 (h) make and execute contracts and all other instruments necessary or convenient for  
163 the performance of its duties under this part as described in Subsection (1);

164 (i) procure insurance for liability and against any loss in connection with its property  
165 and other assets in amounts and from insurers it considers desirable;

166 (j) receive appropriations from the Legislature and receive other public moneys and  
167 accept aid or contributions from any source of money, property, labor, or other things of value  
168 to be held, used, and applied to carry out the purposes of this part, subject to the conditions  
169 upon which the grants and contributions are made, including gifts or grants from a

170 department, agency, or instrumentality of the United States or of this state for any purpose  
171 consistent with this part;

172 (k) enter into agreements with a department, agency, or instrumentality of the United  
173 States or this state for the purpose of providing for the operation and maintenance of a scenic  
174 railway in and around Weber and Box Elder Counties; and

175 (l) do any act necessary or convenient to the exercise of the powers granted to the  
176 authority by this part.

177 (3) (a) All monies received by the authority under Subsection (2)(j) and from any other  
178 source are for the exclusive use of the authority in the performance and exercise of its duties  
179 under this part as described in Subsection (1).

180 (b) Monies received by the authority may not be used for any other purpose or by any  
181 other entity.

182 Section 7. Section **9-3-507** is enacted to read:

183 **9-3-507. Notes, bonds, other obligation -- Not debt liability -- Expenses payable**  
184 **from funds provided -- Agency without authority to incur liability on behalf of state.**

185 (1) (a) An obligation or liability of the authority does not constitute:

186 (i) a debt or liability of the state or of any of its political subdivisions; or

187 (ii) the loaning of credit of the state or of any of its political subdivisions.

188 (b) An obligation or liability of the authority is payable only from funds of the  
189 authority.

190 (2) An obligation of the authority shall contain a statement to the effect:

191 (a) that the authority is obligated to pay the obligation solely from the revenues or  
192 other funds of the authority;

193 (b) that neither the state nor its political subdivisions are obligated to pay it; and

194 (c) that neither the faith and credit nor the taxing power of the state or any of its  
195 political subdivisions is pledged to the payment of the obligation.

196 (3) (a) Expenses incurred in carrying out this part are payable solely from funds of the  
197 authority provided under this part.

198 (b) Nothing in this part authorizes the authority to incur indebtedness or liability on  
199 behalf of or payable by the state or any of its political subdivisions.

200 Section 8. Section **9-3-508** is enacted to read:

201 **9-3-508. Relation to certain acts.**

202 (1) The authority is exempt from:

203 (a) Title 51, Chapter 5, Funds Consolidation Act;

204 (b) Title 63A, Chapter 1, Department of Administrative Services;

205 (c) Title 63G, Chapter 6, Utah Procurement Code;

206 (d) Title 63J, Chapter 1, Budgetary Procedures Act; and

207 (e) Title 67, Chapter 19, Utah State Personnel Management Act.

208 (2) The authority is subject to audit by the state auditor pursuant to Title 67, Chapter  
209 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

210 Section 9. Section **9-3-509** is enacted to read:

211 **9-3-509. Duty to maintain rails and operating equipment.**

212 The authority shall maintain the rails, bed, right-of-way, and related property owned by  
213 the authority upon which the authority's train operates in compliance with state and federal  
214 statutes, rules, and regulations.

215 Section 10. Section **9-3-510** is enacted to read:

216 **9-3-510. Lease of rails or equipment from Department of Transportation and**  
217 **Division of Parks and Recreation.**

218 The Department of Transportation and the Division of Parks and Recreation may  
219 jointly lease the rails, bed, right-of-way, and related property for the operation of a scenic and  
220 historic railroad in and around Weber and Box Elder Counties, for not more than \$1 per year  
221 to the authority.

222 Section 11. Section **63E-1-102** is amended to read:

223 **63E-1-102. Definitions.**

224 As used in this title:

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

226 (2) "Committee" means the Retirement and Independent Entities Committee created in  
227 Section 63E-1-201.

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

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

233 (i) independent state agency; or

234 (ii) independent corporation.

235 (b) "Independent entity" includes the:

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

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

239 (iii) Utah State Railroad Museum Authority created in Title 9, Chapter 3, Part 5, Utah  
240 State Railroad Museum Authority;

241 [~~(iii)~~] (iv) Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah  
242 Science Center Authority;

243 [~~(iv)~~] (v) Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah  
244 Housing Corporation Act;

245 [~~(v)~~] (vi) Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State  
246 Fair Corporation Act;

247 [~~(vi)~~] (vii) Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'  
248 Compensation Fund;

249 [~~(vii)~~] (viii) Utah State Retirement Office created in Title 49, Chapter 11, Utah State  
250 Retirement Systems Administration;

251 [~~(viii)~~] (ix) School and Institutional Trust Lands Administration created in Title 53C,  
252 Chapter 1, Part 2, School and Institutional Trust Lands Administration;

253 [~~(ix)~~] (x) Utah Communications Agency Network created in Title 63C, Chapter 7,

254 Utah Communications Agency Network Act;

255        [~~(x)~~] (xi) Utah Generated Renewable Energy Electricity Network Authority created in  
256 Title 63H, Chapter 2, Utah Generated Renewable Energy Electricity Network Authority Act;  
257 and

258        [~~(xi)~~] (xii) Utah Capital Investment Corporation created in Title 63M, Chapter 1, Part  
259 12, Utah Venture Capital Enhancement Act.

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

261        (i) the Public Service Commission of Utah created in Section 54-1-1;

262        (ii) an institution within the state system of higher education;

263        (iii) a city, county, or town;

264        (iv) a local school district;

265        (v) a local district under Title 17B, Limited Purpose Local Government Entities -  
266 Local Districts; or

267        (vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

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

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

271        (a) one or more private individuals, including public employees;

272        (b) one or more public or private entities; or

273        (c) the owners of a quasi-public corporation.

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

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

281        Section 12. Section **63I-4-102** is amended to read:

282 **63I-4-102. Definitions.**

283 (1) (a) "Activity" means to provide a good or service.

284 (b) "Activity" includes to:

285 (i) manufacture a good or service;

286 (ii) process a good or service;

287 (iii) sell a good or service;

288 (iv) offer for sale a good or service;

289 (v) rent a good or service;

290 (vi) lease a good or service;

291 (vii) deliver a good or service;

292 (viii) distribute a good or service; or

293 (ix) advertise a good or service.

294 (2) (a) Except as provided in Subsection (2)(b), "agency" means:

295 (i) the state; or

296 (ii) an entity of the state including a department, office, division, authority,

297 commission, or board.

298 (b) "Agency" does not include:

299 (i) the Legislature;

300 (ii) an entity or agency of the Legislature;

301 (iii) the state auditor;

302 (iv) the state treasurer;

303 (v) the Office of the Attorney General;

304 (vi) the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

305 (vii) the Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3, Heber

306 Valley Historic Railroad Authority;

307 (viii) the Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah

308 Science Center Authority;

309 (ix) the Utah State Railroad Museum Authority created in Title 9, Chapter 3, Part 5,

310 Utah State Railroad Museum Authority;

311 [~~(ix)~~] (x) the Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah  
312 Housing Corporation Act;

313 [~~(x)~~] (xi) the Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah  
314 State Fair Corporation Act;

315 [~~(xi)~~] (xii) the Workers' Compensation Fund created in Title 31A, Chapter 33,  
316 Workers' Compensation Fund;

317 [~~(xii)~~] (xiii) the Utah State Retirement Office created in Title 49, Chapter 11, Utah  
318 State Retirement Systems Administration;

319 [~~(xiii)~~] (xiv) a charter school chartered by the State Charter School Board under Title  
320 53A, Chapter 1a, Part 5, The Utah Charter Schools Act;

321 [~~(xiv)~~] (xv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter  
322 25b, Utah Schools for the Deaf and the Blind;

323 [~~(xv)~~] (xvi) an institution of higher education as defined in Section 53B-3-102;

324 [~~(xvi)~~] (xvii) the School and Institutional Trust Lands Administration created in Title  
325 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;

326 [~~(xvii)~~] (xviii) the Utah Communications Agency Network created in Title 63C,  
327 Chapter 7, Utah Communications Agency Network Act; or

328 [~~(xviii)~~] (xix) the Utah Capital Investment Corporation created in Title 63M, Chapter  
329 1, Part 12, Utah Venture Capital Enhancement Act.

330 (3) "Agency head" means the chief administrative officer of an agency.

331 (4) "Board" means the Privatization Policy Board created in Section 63I-4-201.

332 (5) "Commercial activity" means to engage in an activity that can be obtained in  
333 whole or in part from a private enterprise.

334 (6) "Local entity" means:

335 (a) a political subdivision of the state, including a:

336 (i) county;

337 (ii) city;

- 338 (iii) town;
- 339 (iv) local school district;
- 340 (v) local district; or
- 341 (vi) special service district;
- 342 (b) an agency of an entity described in this Subsection (6), including a department,
- 343 office, division, authority, commission, or board; and
- 344 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter
- 345 13, Interlocal Cooperation Act, between two or more entities described in this Subsection (6).
- 346 (7) "Private enterprise" means a person that for profit:
- 347 (a) manufactures a good or service;
- 348 (b) processes a good or service;
- 349 (c) sells a good or service;
- 350 (d) offers for sale a good or service;
- 351 (e) rents a good or service;
- 352 (f) leases a good or service;
- 353 (g) delivers a good or service;
- 354 (h) distributes a good or service; or
- 355 (i) advertises a good or service.
- 356 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
- 357 private enterprise engages in the activity including a transfer by:
- 358 (a) contract;
- 359 (b) transfer of property; or
- 360 (c) another arrangement.

361 Section 13. Section **63J-7-102** is amended to read:

362 **63J-7-102. Scope and applicability of chapter.**

- 363 (1) Except as provided in Subsection (2), and except as otherwise provided by a
- 364 statute superseding provisions of this chapter by explicit reference to this chapter, the
- 365 provisions of this chapter apply to each agency and govern each grant received on or after May

366 5, 2008.

367 (2) This chapter does not govern:

368 (a) a grant deposited into a General Fund restricted account;

369 (b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

370 (c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

371 (d) a grant made to the state without a restriction or other designated purpose that is  
372 deposited into the General Fund as free revenue;

373 (e) a grant made to the state that is restricted only to "education" and that is deposited  
374 into the Education Fund or Uniform School Fund as free revenue;

375 (f) in-kind donations;

376 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other monies due the state  
377 when required by state law or application of state law;

378 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax  
379 Contribution Act;

380 (i) a grant received by an agency from another agency or political subdivision;

381 (j) a grant to the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion  
382 Act;

383 (k) a grant to the Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3,  
384 Heber Valley Historic Railroad Authority;

385 (l) a grant to the Utah Science Center Authority created in Title 9, Chapter 3, Part 4,  
386 Utah Science Center Authority;

387 (m) a grant to the Utah State Railroad Museum Authority created in Title 9, Chapter 3,  
388 Part 5, Utah State Railroad Museum Authority;

389 [~~m~~] (n) a grant to the Utah Housing Corporation created in Title 9, Chapter 4, Part 9,  
390 Utah Housing Corporation Act;

391 [~~n~~] (o) a grant to the Utah State Fair Corporation created in Title 9, Chapter 4, Part  
392 11, Utah State Fair Corporation Act;

393 [~~o~~] (p) a grant to the Workers' Compensation Fund created in Title 31A, Chapter 33,

394 Workers' Compensation Fund;

395       ~~[(p)]~~ (q) a grant to the Utah State Retirement Office created in Title 49, Chapter 11,

396 Utah State Retirement Systems Administration;

397       ~~[(q)]~~ (r) a grant to the School and Institutional Trust Lands Administration created in

398 Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;

399       ~~[(r)]~~ (s) a grant to the Utah Communications Agency Network created in Title 63C,

400 Chapter 7, Utah Communications Agency Network Act;

401       ~~[(s)]~~ (t) a grant to the Medical Education Program created in Section 63C-8-102;

402       ~~[(t)]~~ (u) a grant to the Utah Capital Investment Corporation created in Title 63M,

403 Chapter 1, Part 12, Utah Venture Capital Enhancement Act;

404       ~~[(u)]~~ (v) a grant to the State Charter School Finance Authority created in Section

405 53A-20b-103;

406       ~~[(v)]~~ (w) a grant to the State Building Ownership Authority created in Section

407 63B-1-304;

408       ~~[(w)]~~ (x) a grant to the Utah Comprehensive Health Insurance Pool created in Section

409 31A-29-104; or

410       ~~[(x)]~~ (y) a grant to the Military Installation Development Authority created in Section

411 63H-1-201.

412       (3) An agency need not seek legislative review or approval of grants under Part 2,

413 Grant Approval Requirements, when:

414       (a) the governor has declared a state of emergency; and

415       (b) the grant is donated to the agency to assist disaster victims under Subsection

416 63K-4-201(2).

417       Section 14. **Effective date.**

418       This bill takes effect on July 1, 2010.