

SJ Quinney College of Law, University of Utah

## Utah Law Digital Commons

---

Utah Code Annotated 1943-1995

---

1992

### Title 09 Chapter 04 Part 1-5: Community Development General Provisions to Bond Volume - 1992

Utah Code Annotated

Follow this and additional works at: <https://dc.law.utah.edu/uca>

The Utah Code Annotated digital collection, hosted by Digital Commons, is brought to you for free and open access by the James E. Faust Law Library at the S.J. Quinney College of Law. Funds for this project have been provided by the Institute of Museum and Library Services through the Library Services and Technology Act and are administered by the Utah State Library Division. For more information, please contact [valeri.craigle@law.utah.edu](mailto:valeri.craigle@law.utah.edu). Reprinted with permission. Copyright 2020 LexisNexis. All rights reserved.

---

#### Recommended Citation

Utah Code Annotated Title 9-4 (Michie, 1992)

This Book is brought to you for free and open access by Utah Law Digital Commons. It has been accepted for inclusion in Utah Code Annotated 1943-1995 by an authorized administrator of Utah Law Digital Commons. For more information, please contact [valeri.craigle@law.utah.edu](mailto:valeri.craigle@law.utah.edu).

**9-3-310. Lease of rails from Department of Transportation and Division of Parks and Recreation.**

The Department of Transportation and the Division of Parks and Recreation shall jointly lease the rails, bed, right-of-way, and related property for not more than \$1 per year to the authority.

**History:** C. 1953, 9-3-310, enacted by L. 1992, ch. 182, § 10.

**Effective Dates.** — Laws 1992, ch. 182, § 14 makes the act effective on July 1, 1992.

**Cross-References.** — Department of Transportation, Title 63, Chapter 49.

Division of Parks and Recreation, § 63-11-17.1.

**9-3-311. Sales tax exemption.**

The authority and its operators is exempt from sales and use tax imposed under Title 59, Chapter 12.

**History:** C. 1953, 9-3-311, enacted by L. 1992, ch. 182, § 11.

**Effective Dates.** — Laws 1992, ch. 182, § 14 makes the act effective on July 1, 1992.

**CHAPTER 4  
COMMUNITY DEVELOPMENT**

**Part 1**

**General Provisions**

- Section 9-4-101. Reserved.
- 9-4-102. Definitions.

**Part 2**

**Division of Community Development**

- 9-4-201. Division of Community Development.
- 9-4-202. Powers and duties of division.

**Part 3**

**Community Impact Alleviation**

- 9-4-301. Legislative intent — Purpose and policy.
- 9-4-302. Definitions.
- 9-4-303. Impact fund — Deposits and contents.
- 9-4-304. Permanent Community Impact Fund Board created — Members — Terms — Chairman — Expenses.
- 9-4-305. Duties — Loans — Interest.
- 9-4-306. Powers.
- 9-4-307. Impact fund administered by impact board — Eligibility for assistance — Review by board — Administration costs — Annual report — Compliance with tax commission directives.

**Part 4**

**Disaster Relief**

- Section 9-4-401. State purpose.
- 9-4-402. Legislative findings.
- 9-4-403. Definitions.
- 9-4-404. Disaster Relief Board — Creation — Members — Duties.
- 9-4-405. Findings and information required.
- 9-4-406. Authority to grant funds to political subdivisions and to extend loans to water conservancy districts — Local property tax levy — State-local share for federal funds — Grants to be based on net costs — Loan repayment — Provisions in loan agreements.
- 9-4-407. Relief and disaster organizations.
- 9-4-408. Losses not qualifying for assistance — Recovery of excess assistance — Lapse of grants.
- 9-4-409. Plans for implementation — Reports to Legislature.
- 9-4-410. Fraud — Violation of orders or regulations — Misapplication of funds.
- 9-4-411. Conditions for granting or loaning disaster relief funds — Information required by Disaster Relief Board — Approval of project design.

- Section  
 9-4-412. Rules.  
 9-4-413. Disaster Relief Restricted Account — Implementation limited.

**Part 5**

**Bond Volume Cap Allocation**

- 9-4-501. Legislative intent.  
 9-4-502. Definitions.  
 9-4-503. Private Activity Bond Review Board.  
 9-4-504. Powers, functions, and duties of board of review.  
 9-4-505. Allocation of volume cap.  
 9-4-506. Allotment accounts.  
 9-4-507. Certificates of allocation.  
 9-4-508. Issuing authorities — Limitations — Duties.  
 9-4-509. Procedures — Adjudicative proceedings.

**Part 6**

**Housing Authorities**

- 9-4-601. Legislative policy and purpose.  
 9-4-602. Definitions.  
 9-4-603. Creation of housing authority authorized — Procedure.  
 9-4-604. Indian housing authorities.  
 9-4-605. State planning coordinator — Functions.  
 9-4-606. Commissioners — Appointment — Terms — Quorum — Meetings — Employment of other officers and employees authorized.  
 9-4-607. Disclosure of interest in project — Restrictions.  
 9-4-608. Misconduct of commissioners — Removal.  
 9-4-609. Powers of housing authority.  
 9-4-610. Profit from projects prohibited — Criteria for determining rentals and payments.  
 9-4-611. Eligibility requirements for occupants — Rights of obligee on default of authority.  
 9-4-612. Penalties for fraudulently obtaining or continuing to receive housing assistance benefits.  
 9-4-613. Authorities may join or cooperate.  
 9-4-614. Elderly and handicapped to have preference.  
 9-4-615. Victims of major disaster.  
 9-4-616. Property and funds of authority declared public property — Exemption from taxes — Alternative agreement with public body.  
 9-4-617. Projects subject to local building regulations.

- Section  
 9-4-618. Bonds authorized — Payment — Security — Liability — Purpose — Exemption from taxes except corporate franchise tax.  
 9-4-619. Bonds to be authorized by resolution — Form — Sale — Negotiability — Validity presumed.  
 9-4-620. Bonds and other obligations — Additional powers of authority.  
 9-4-621. Issuance of bonds — Other laws not to apply.  
 9-4-622. Rights of obligees of authority.  
 9-4-623. Obligees — Additional rights conferred by authority.  
 9-4-624. Property of authority exempt from levy and sale — Obligees excepted — Waiver.  
 9-4-625. Financial assistance from federal government permitted.  
 9-4-626. Defaults — Conveyance of title to federal government.  
 9-4-627. Powers of public body aiding in project.  
 9-4-628. Agreement by public body to accept payment from authority in lieu of taxes.  
 9-4-629. Public body may provide financial aid.  
 9-4-630. Investment in authority authorized.  
 9-4-631. Annual report.  
 9-4-632. Provisions controlling — Acts of governmental bodies deemed administrative.

**Part 7**

**Housing Trust Fund**

- 9-4-701. Definitions.  
 9-4-702. Creation and administration.  
 9-4-703. Housing Board — Duties.  
 9-4-704. Distribution of fund moneys.  
 9-4-705. Activities authorized to receive fund moneys.  
 9-4-706. Entities authorized to receive fund moneys.  
 9-4-707. Application process and priorities.  
 9-4-708. Annual accounting.

**Part 8**

**Homeless Coordinating Committee**

- 9-4-801. Creation.  
 9-4-802. Purposes of Homeless Coordinating Committee — Uses of Homeless Trust Account.  
 9-4-803. Creation of Homeless Trust Account.

**Part 9**

**Utah Housing Finance Agency**

- 9-4-901. Short title.

Section		Section	
9-4-902.	Policy — Finding and declaration.		with holders of notes and bonds
9-4-903.	Definitions.		— Moneys held in trust.
9-4-904.	Creation — Members — Terms — Vacancies — Chairman — Powers — Quorum — Per diem and expenses.	9-4-916.	State pledge to holders of notes or bonds.
9-4-905.	Executive director — Secretary- treasurer — Powers and duties — Agency power to employ ex- perts — Agency power to em- ploy independent legal counsel.	9-4-917.	Notes, bonds, other obligations — Not debt liability — Expenses payable from funds provided — Agency without authority to in- cur liability on behalf of state.
9-4-906.	Relation to certain acts.	9-4-918.	Agency property, notes, and bonds — Tax exemption except corporate franchise tax.
9-4-907.	Member or employee — Disclo- sure of interest.	9-4-919.	Agency notes, bonds, obligations — Legal investments.
9-4-908.	Officer or employee — No forfei- ture of office or employment.	9-4-920.	Annual report to governor and Legislature — Contents — Audit by state auditor — Reim- bursement for costs.
9-4-909.	Members — Surety bond re- quired.	9-4-921.	State grants.
9-4-910.	Agency — Powers.	9-4-922.	Act not restriction on powers of agency — Construed as alterna- tive — Bonds, notes, obligations issued need not comply with other laws.
9-4-911.	Agency — Additional powers.	9-4-923.	Allocation of mortgage bonds qualified under Internal Re- venue Code to agency.
9-4-912.	Power to issue mortgage credit certificates — Impact of federal legislation on tax exempt status of agency bond.	9-4-924.	Allocation of qualified mortgage bonds to counties, cities, and towns.
9-4-913.	Power to borrow money and make loans — Issuance of notes and bonds.		
9-4-914.	Capital reserve funds — Capital reserve fund requirement — Establishment of other funds.		
9-4-915.	Agency moneys — Depositing and paying out — Power to contract		

## PART 1

### GENERAL PROVISIONS

#### 9-4-101. Reserved.

**Compiler's Notes.** — This chapter, as created by Laws 1992, ch. 241, does not contain a § 9-4-101.

#### 9-4-102. Definitions.

As used in this chapter:

- (1) "Director" means the director of the division.
- (2) "Division" means the Division of Community Development.

**History:** C. 1953, 9-4-102, enacted by L. 1992, ch. 241, § 117.

**Effective Dates.** — Laws 1992, ch. 241,

§ 377 makes the act effective on March 13, 1992.

## PART 2

## DIVISION OF COMMUNITY DEVELOPMENT

**9-4-201. Division of Community Development.**

There is created within the department the Division of Community Development under the administration and general supervision of the director.

**History:** C. 1953, 9-4-201, enacted by L. § 377 makes the act effective on March 13, 1992, ch. 241, § 118.

**Effective Dates.** — Laws 1992, ch. 241,

**9-4-202. Powers and duties of division.**

(1) The division shall:

(a) assist local governments and citizens in the planning, development, and maintenance of necessary public infrastructure and services;

(b) cooperate with, and provide technical assistance to, counties, cities, towns, regional planning commissions, area-wide clearinghouses, zoning commissions, parks or recreation boards, community development groups, community action agencies, and other agencies created for the purpose of aiding and encouraging an orderly, productive, and coordinated development of the state and its political subdivisions;

(c) assist the governor in coordinating the activities of state agencies which have an impact on the solution of community development problems and the implementation of community plans;

(d) provide assistance to communities in preparing applications to the Four Corners Regional Commission;

(e) serve as a clearinghouse for information, data, and other materials which may be helpful to local governments in discharging their responsibilities and provide information on available federal and state financial and technical assistance;

(f) carry out continuing studies and analyses of the problems faced by communities within the state and develop such recommendations for administrative or legislative action as appear necessary;

(g) assist in funding adequate housing;

(h) support economic development activities through grants, loans, and direct programs financial assistance;

(i) certify project funding at the local level in conformance with federal, state, and other requirements; and

(j) utilize the capabilities and facilities of public and private universities and colleges within the state in carrying out its functions.

(2) The division may:

(a) accept for and on behalf of, and bind the state to, any federal program in which the state is invited, permitted, or authorized to participate in the distribution, disbursement, or administration of any fund or service advanced, offered, or contributed in whole or in part, by the federal government for purposes consistent with the powers and duties of the department; and

(b) if any federal program requires the expenditure of state funds as a condition to participation by the state in any fund, property, or service,

with the governor's approval, expend whatever funds are necessary out of the money provided by the Legislature for the use of the department.

**History:** C. 1953, 63-33-5, enacted by L. 1979, ch. 234, § 1; renumbered by L. 1992, ch. 241, § 119.

**Amendment Notes.** — The 1992 amendment, effective March 13, 1992, renumbered

this section, which formerly appeared as § 63-33-5; substituted "division" for "department"; and otherwise rewrote the section to such an extent that a detailed analysis is impracticable.

## PART 3

### COMMUNITY IMPACT ALLEVIATION

#### 9-4-301. Legislative intent — Purpose and policy.

(1) It is the intent of the Legislature to make available funds received by the state from federal mineral lease revenues under Section 59-21-2, bonus payments on federal oil shale lease tracts U-A and U-B, and all other bonus payments on federal mineral leases to be used for the alleviation of social, economic, and public finance impacts resulting from the development of natural resources in this state, subject to the limitations provided for in Section 35 of the Mineral Leasing Act of 1920 (41 Stat. 450, 30 U.S.C. Sec. 191).

(2) The purpose of this part is to maximize the long term benefit of funds derived from these lease revenues and bonus payments by fostering funding mechanisms which will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of this state, with priority given to those communities designated as impacted by the development of natural resources covered by the Mineral Leasing Act.

(3) The policy of this state is to promote cooperation and coordination between the state and its agencies and political subdivisions with individuals, firms, and business organizations engaged in the development of the natural resources of this state. The purpose of such efforts should include private sector participation, financial and otherwise, in the alleviation of impacts associated with resources development activities.

**History:** C. 1953, 63-52-1, enacted by L. 1982 (2nd S.S.), ch. 2, § 3; renumbered by L. 1992, ch. 241, § 120.

**Repeals and Reenactments.** — Laws 1982 (2nd S.S.), ch. 2, § 3 repealed former § 63-52-1, as enacted by Laws 1977, ch. 195, § 1, creating the Community Impact Account, and enacted another § 63-52-1, which was renumbered as this section.

**Amendment Notes.** — The 1992 amendment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52-1; substituted "Section 59-21-2" for "Subsection 65-1-64.5(3)" in Subsection (1); and substituted "part" for "chapter" in Subsection (2).

#### 9-4-302. Definitions.

As used in this part:

(1) "Bonus payments" mean that portion of the bonus payments received by the United States government under the Leasing Act paid to the state under Section 35 of the Leasing Act, together with any interest that had accrued on those payments.

(2) "Impact board" means the Permanent Community Impact Fund Board created under Section 9-4-304.

(3) "Impact fund" means the Permanent Community Impact Fund established under Subsection 51-5-4(8)(b).

(4) "Leasing Act" means the Mineral Leasing Act of 1920 (30 U.S.C. Sec. 181 et seq.), as amended.

(5) "Subdivision" means any county, city, town, special service district, special improvement district, water conservancy district, water or sewer improvement district, housing authority, building authority, or school district organized under the laws of this state.

**History:** C. 1953, 63-52-1.3, enacted by L. 1982 (2nd S.S.), ch. 2, § 4; 1986, ch. 154, § 8; 1992, ch. 30, § 129; renumbered by L. 1992, ch. 241, § 121.

**Amendment Notes.** — The 1992 amendment by ch. 241, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52-1.3; redesignated former Subsections (5), (1), and (3) as present Subsections (1), (3), and (5), respectively; updated the reference in Subsection (2); substituted "Sub-

section 51-5-4(8)(b)" for "Subsection 51-5-4(9)" in Subsection (3); and made stylistic changes.

The 1992 amendment by ch. 30, effective April 27, 1992, substituted "51-5-4(8)(b)" for "51-5-4(9)(b)" in Subsection (1).

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

**Federal Law.** — Section 35 of the federal Mineral Leasing Act, cited in Subsection (1), is codified as 30 U.S.C. § 191.

## 9-4-303. Impact fund — Deposits and contents.

(1) There shall be deposited into the impact fund, and it shall consist of:

(a) all amounts appropriated to the impact fund under Section 59-21-2;

(b) 70% of the bonus payments in respect of the Department of the Interior oil shale prototype leases known as U-A and U-B;

(c) 70% of all other bonus payments;

(d) all amounts received by way of the repayment of loans made by the impact board under this chapter or from the Community Impact Account; and

(e) all other monies appropriated or otherwise made available to the impact fund by the Legislature.

(2) The impact fund shall be invested by the state treasurer in accordance with the State Money Management Act of 1974, except that all interest or other earnings derived from the fund shall be returned to the impact fund rather than the General Fund.

(3) The amounts in the impact fund available for loans, grants, administrative costs, or other purposes of this part shall be limited to that which the Legislature appropriates for these purposes.

**History:** C. 1953, 63-52-1.5, enacted by L. 1982 (2nd S.S.), ch. 2, § 5; renumbered by L. 1992, ch. 241, § 122.

**Amendment Notes.** — The 1992 amendment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52-1.5; substituted "Section 59-21-2" for "Subsection 65-1-64.5(3)" in Subsection (1)(a); inserted "or from the Community Impact Ac-

count" in Subsection (1)(d); deleted former Subsection (2), relating to transfers or deposits into the impact fund; redesignated former Subsections (3) and (4) as Subsections (2) and (3); substituted "part" for "chapter" in Subsection (3); and made stylistic changes.

**Cross-References.** — State Money Management Act, Title 51, Chapter 7.

### 9-4-304. Permanent Community Impact Fund Board created — Members — Terms — Chairman — Expenses.

(1) There is created within the Department of Community and Economic Development the Permanent Community Impact Fund Board composed of ten members as follows:

- (a) the chairman of the Board of Water Resources or his designee;
- (b) the chairman of the Water Quality Board or his designee;
- (c) the director of the department or his designee;
- (d) the chairman of the State Board of Education or his designee;
- (e) the state treasurer;
- (f) the chairman of the Utah Transportation Commission or his designee;
- (g) a locally elected official who resides in Carbon, Emery, Grand, or San Juan County;
- (h) a locally elected official who resides in Juab, Millard, Sanpete, Sevier, Piute, or Wayne County;
- (i) a locally elected official who resides in Duchesne, Daggett, or Uintah County; and
- (j) a locally elected official who resides in Beaver, Iron, Washington, Garfield, or Kane County.

(2) (a) The members specified in Subsections (1)(g) through (1)(j) shall be:

- (i) nominated by the Board of Directors of the Southeastern Association of Governments, Central Utah Association of Governments, Uintah Basin Association of Governments, and Southwestern Association of Governments, respectively; and
- (ii) appointed by the governor with the advice and consent of the Senate for two-year terms.

(b) If an appointed member does not fulfill his term, the governor shall appoint a replacement with the advice and consent of the Senate to fill the unexpired term.

(3) The terms of office for the members of the impact board specified in Subsections (1)(a) through (1)(f) shall run concurrently with the terms of office for the councils, boards, committees, commission, departments, or offices from which the members come.

(4) The executive director of the department, or his designee, shall be the chairman of the impact board.

(5) Members shall receive travel expenses as provided by Section 63-1-15 and established by the Division of Finance.

**History:** C. 1953, 63-52-2, enacted by L. 1982 (2nd S.S.), ch. 2, § 6; 1992, ch. 133, § 1; renumbered by L. 1992, ch. 241, § 123.

**Repeals and Reenactments.** — Laws 1982 (2nd S.S.), ch. 2, § 6 repealed former § 63-52-2, as amended by Laws 1979, ch. 234, § 34, relating to the Natural Resources Community Impact Board, and enacted another § 63-52-2, which was renumbered as this section.

**Amendment Notes.** — The 1992 amendment by ch. 241, effective March 13, 1992, renumbered this section, which formerly ap-

peared as § 63-52-2; deleted former Subsection (1), relating to termination of the terms of office of the natural resources community impact board, and redesignated the following Subsections accordingly; substituted "Permanent Community Impact Fund Board" for "Impact Board" in Subsection (1); substituted "Water Quality Board" for "State Water Pollution Committee" in Subsection (1)(b); substituted "Advisory Council on Intergovernmental Relations" for "Governor's Advisory Council on Community Affairs" in Subsection (1)(c); added



"as established by the Division of Finance" at the end of Subsection (4); and made stylistic changes.

The 1992 amendment by ch. 133, effective April 27, 1992, deleted former Subsection (1), terminating the terms of office of the natural resources community impact board, and redesignated former Subsection (2) as Subsection (1); substituted "the Permanent Community Impact Fund Board composed of ten members as follows" for "the Impact Board, comprised of the following individuals" in the introductory language of present Subsection (1); substituted "Water Quality Board" for "state water pollution committee" in Subsection (1)(b); deleted former Subsections (1)(c) and (1)(h), listing the chairman of the governor's advisory council on community affairs and the chairman of the Board of Family Services, and redesignated the remaining subsections accordingly; added Sub-

sections (1)(g) through (1)(j) and Subsection (2); inserted "specified in Subsections (1)(a) through (1)(f)" in Subsection (3); substituted "travel expenses as provided by Section 63-1-15" for "all actual and necessary expenses incurred in carrying out their official duties" in Subsection (5); and made stylistic changes throughout the section.

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

**Cross-References.** — Board of Water Resources, chairman, § 73-10-3.

State Board of Education, chairman, § 53A-1-201.

State treasurer, § 64-4-1 et seq.

Transportation Commission, chairman, § 63-49-10.

Water Quality Board, chairman, § 19-5-103.

#### COLLATERAL REFERENCES

C.J.S. — 81A C.J.S. States § 82.

### 9-4-305. Duties — Loans — Interest.

(1) The impact board shall:

(a) make, subject to the limitations of the Leasing Act, grants and loans from the amounts appropriated by the Legislature out of the impact fund to state agencies and to subdivisions which are or may be socially or economically impacted, directly or indirectly, by mineral resource development for:

(i) planning;

(ii) construction and maintenance of public facilities; and

(iii) provision of public services;

(b) establish the criteria by which such loans and grants will be made;

(c) determine the order in which projects will be funded;

(d) in conjunction with other agencies of the state or of subdivisions conduct studies, investigations, and research into the effects of proposed mineral resource development projects upon local communities;

(e) sue and be sued in accordance with applicable law;

(f) qualify for, accept, and administer grants, gifts, loans, or other funds from the federal government and from other sources, public or private; and

(g) perform other duties assigned to it under Sections 11-13-29 and 11-13-30.

(2) Monies, including all loan repayments and interest, in the impact fund derived from bonus payments may be used for any of the purposes set forth in Subsection (1)(a) but may only be given in the form of loans to be paid back into the impact fund by the agency or subdivision.

(3) The average annual return to the impact fund on all bonus monies may not be less than one-half of the average interest rate paid by the state on general obligation bonds issued during the most recent fiscal year in which bonds were sold.

**History:** C. 1953, 63-52-3, enacted by L. 1977, ch. 195, § 3; 1982 (2nd S.S.), ch. 2, § 7; renumbered by L. 1992, ch. 241, § 124.

**Amendment Notes.** — The 1992 amendment, effective March 13, 1992, renumbered

this section, which formerly appeared as § 63-52-3; inserted present Subsection (1)(g); and made stylistic changes.

**Cross-References.** — "Leasing Act" defined and cited, § 9-4-302.

#### COLLATERAL REFERENCES

C.J.S. — 81A C.J.S. States § 120.

### 9-4-306. Powers.

The impact board may:

(1) appoint, where it deems this appropriate, a hearing examiner or administrative law judge with authority to conduct any hearings, make determinations, and enter appropriate findings of facts, conclusions of law, and orders under authority of the impact board under Sections 11-13-29 and 11-13-30;

(2) appoint additional professional and administrative staff necessary to effectuate Sections 11-13-29 and 11-13-30;

(3) make independent studies regarding matters submitted to it under Sections 11-13-29 and 11-13-30 that the impact board, in its discretion, deems necessary, which studies shall be made a part of the record and may be considered in the impact board's determination; and

(4) make rules under Title 63, Chapter 46a, Utah Administrative Rule-making Act it deems necessary to perform its responsibilities under Sections 11-13-29 and 11-13-30.

**History:** C. 1953, 63-52-3.5, enacted by L. 1980, ch. 25, § 1; 1982 (2nd S.S.), ch. 2, § 8; 1987, ch. 92, § 123; renumbered by L. 1992, ch. 241, § 125.

**Amendment Notes.** — The 1992 amendment, effective March 13, 1992, renumbered

this section, which formerly appeared as § 63-52-3.5; deleted former Subsection (1), pertaining to duties assigned to the board under §§ 11-13-29 and 11-13-30; redesignated the following subsections accordingly; and made stylistic changes.

### 9-4-307. Impact fund administered by impact board — Eligibility for assistance — Review by board — Administration costs — Annual report — Compliance with tax commission directives.

(1) The impact board shall administer the impact fund in a manner which will keep a portion of the impact fund revolving and shall determine provisions for repayment of loans. In order to receive assistance under this part, subdivisions shall submit formal applications with such information as the impact board prescribes. The impact board shall establish criteria for determining eligibility for assistance under this part which are consistent with the purposes of Section 35 of the Leasing Act. In determining eligibility for loans and grants under this part, the impact board shall consider the following:

(a) the subdivision's current federal mineral lease production;

(b) the feasibility of the actual development of a resource which may impact the subdivision directly or indirectly;

(c) current taxes being paid by the subdivision's residents;

- (d) the borrowing capacity of the subdivision, its ability and willingness to sell bonds or other securities in the open market, and its current and authorized indebtedness, except that the impact board may not fund any education project which could otherwise have reasonably been funded by a school district through a program of annual budgeting, capital budgeting, bonded indebtedness, or special assessments;
- (e) all possible additional sources of state and local revenue, including utility user charges;
- (f) the availability of federal assistance funds;
- (g) probable growth of population due to actual or prospective natural resource development in an area;
- (h) existing public facilities and services;
- (i) the extent of the expected direct or indirect impact upon public facilities and services of the actual or prospective natural resource development in an area; and
- (j) the extent of industry participation in an impact alleviation plan, either as specified in Title 63, Chapter 51, or otherwise.
- (2) The impact board shall review the proposed usages of the impact fund for loans or grants prior to approval and may condition approval on such assurances as the impact board deems necessary to ensure that the proceeds of the loan or grant will be used in accordance with the provisions of the Leasing Act. Any loan shall specify the terms for repayment and shall be evidenced by general obligation, special assessment, or revenue bonds, notes, or other obligations of the appropriate subdivision issued to the impact board pursuant to such authority for the issuance thereof as may exist at the time of the loan.
- (3) The impact board shall allocate from the impact fund to the department those funds that are appropriated by the Legislature for the administration of the impact fund, but this amount may not exceed 2% of the annual receipts to the impact fund.
- (4) The department shall make an annual report to the Legislature concerning the number and type of loans and grants made as well as a list of subdivisions which received this assistance.
- (5) Notwithstanding anything to the contrary in this part, no loan or grant may be made to any subdivision that is not in compliance by January 1, 1983, with the directives of the State Tax Commission with respect to factoring.

**History:** C. 1953, 63-52-4, enacted by L. 1977, ch. 195, § 4; 1978, ch. 21, § 1; 1979, ch. 234, § 35; 1982 (2nd S.S.), ch. 2, § 9; renumbered by L. 1992, ch. 241, § 126.

**Amendment Notes.** — The 1992 amendment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52-4; substituted "part" for "chapter" throughout the section; deleted former Subsection (2), relating to the board's duty to consult

with the Governor's Advisory Council on Community Affairs and the restructuring of the agency's or subdivision's liability to repay loans for extenuating circumstances; redesignated the following subsections accordingly; and made stylistic changes.

**Federal Law.** — The federal Mineral Leasing Act, cited in Subsection (1), is 30 U.S.C. § 181 et seq. Section 35 of the act is 30 U.S.C. § 191.

## PART 4

## DISASTER RELIEF

**Sunset.** — Laws 1985, ch. 172, § 5, as amended by L. 1989, ch. 273, § 7 provides: "This act [enacting Title 63, Chapter 52a, renumbered as this part] is repealed on June 30, 1994."

**9-4-401. State purpose.**

Actions taken and funds expended under this part to provide disaster relief within this state are hereby declared to be for a state public purpose.

**History:** C. 1953, 63-52a-1, enacted by L. 1983 (1st S.S.), ch. 15, § 1; renumbered by L. 1992, ch. 241, § 127.

**Sunset.** — See note with same catchline under Part 4 heading.

**Amendment Notes.** — The 1992 amendment, effective March 13, 1992, renumbered this section, which formerly appeared as

§ 63-52a-1, and substituted "part" for "chapter."

**Compiler's Notes.** — Title 63, Chapter 52a was renumbered as this part; § 63-52a-13, enacted by L. 1991 (2d S.S.), ch. 1, was apparently overlooked by ch. 241 and remains as the only section in Chapter 52a.

## COLLATERAL REFERENCES

**Am. Jur. 2d.** — 79 Am. Jur. 2d Welfare Laws § 44.

**C.J.S.** — 81A C.J.S. States § 205.

**9-4-402. Legislative findings.**

The Legislature finds that unusual weather conditions in the last several years have caused high water levels in the state's streams, reservoirs, and lakes. It is in the best interest of the state and its political subdivisions to manage those bodies of water.

**History:** C. 1953, 63-52a-1.5, enacted by L. 1984, ch. 33, § 5; renumbered by L. 1992, ch. 241, § 128.

**Sunset.** — See note with same catchline under Part 4 heading.

**Amendment Notes.** — The 1992 amendment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52a-1.5.

**9-4-403. Definitions.**

As used in this part:

(1) "Disaster Relief Board" or "DRB" means that board created to administer state disaster relief funds and to promulgate rules regarding those funds.

(2) "Governing body" means the governing body of a county or municipality.

(3) "Localized disaster" means flood, high water, earth movement, mud slide, or other similar or related natural catastrophe, in any part of the state, resulting from occurrences which, in the determination of the DRB, causes, has caused, or may cause damage of sufficient magnitude to warrant disaster assistance under this part, financial relief for which is not otherwise adequately provided.

(4) "Political subdivision" means a county or municipality within the state.

(5) "Public facility" includes a county or municipality-owned flood control, dam, public power, sewage treatment and collection, water way, water supply and distribution, and watershed development facility, non-federal and non-state street, road, highway, or bridge, and other county or municipality-owned building, structure, or system, and any federal non-state road, highway, or bridge damage to which is not covered by federal highway funding.

**History:** C. 1953, 63-52a-2, enacted by L. 1983 (1st S.S.), ch. 15, § 1; 1984 (3rd S.S.), ch. 2, § 1; renumbered by L. 1992, ch. 241, § 129.

**Sunset.** — See note with same catchline under Part 4 heading.

**Amendment Notes.** — The 1992 amendment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52a-2, substituted "part" for "chapter" in two places, and deleted "and regulations" after "rules" in Subsection (1).

#### 9-4-404. Disaster Relief Board — Creation — Members — Duties.

(1) (a) In order to implement the provisions of this part, the Disaster Relief Board is created.

(b) The Disaster Relief Board consists of the persons who comprise the impact board created in Section 9-4-304.

(2) The DRB shall:

(a) administer all localized disaster relief funds appropriated to implement this part;

(b) review applications for disaster relief grants or loans;

(c) grant disaster relief funds for localized disaster areas in an amount to be determined by the DRB in consultation with state agencies conversant with the considerations relevant to the particular application within the limits set in this part and after approval by the Division of Comprehensive Emergency Management; and

(d) subject to Subsection 9-4-406(1)(b), extend disaster relief loans to water conservancy districts in amounts to be determined by the DRB with the considerations relevant to the particular application within the limits set in this part and after approval by the Division of Comprehensive Emergency Management.

**History:** C. 1953, 63-52a-3, enacted by L. 1983 (1st S.S.), ch. 15, § 1; 1989, ch. 273, § 1; renumbered by L. 1992, ch. 241, § 130.

**Sunset.** — See note with same catchline under Part 4 heading.

**Amendment Notes.** — The 1989 amendment, effective March 14, 1989, added "or

loans" at the end of Subsection (1), added Subsection (3), and made related changes.

The 1992 amendment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52a-3; substituted "part" for "chapter" throughout the section; and made corresponding reference changes and stylistic changes.

**9-4-405. Findings and information required.**

(1) A request by a governing body and a grant or loan under this part by the DRB shall be based upon a finding by the governing body and DRB respectively that the localized disaster is of such magnitude that:

(a) effective response is beyond the capabilities of the local governing body;

(b) federal funds and emergency aid have been applied for by the state or the affected political subdivision and such federal funds and emergency aid will not be forthcoming, or have been denied, or that federal funds and aid are inadequate; and

(c) state emergency funding assistance is necessary.

(2) As a part of the request, and as a prerequisite to localized disaster assistance from the state under this part, the local governing body of an affected political subdivision shall furnish the following information:

(a) the extent and nature of the damage, hardships, suffering, possible loss of life, or other actual harm to the health, safety, or welfare of the citizens;

(b) the extent and nature of political subdivision resources which have been or will be used to finance the recovery from localized disaster; and

(c) certification that adequate federal or other state funds have not been received by the governing body of the affected political subdivision to finance recovery from the disaster.

**History:** C. 1953, 63-52a-4, enacted by L. 1983 (1st S.S.), ch. 15, § 1; 1987, ch. 92, § 124; 1989, ch. 273, § 2; renumbered by L. 1992, ch. 241, § 131.

**Sunset.** — See note with same catchline under Part 4 heading.

**Amendment Notes.** — The 1989 amend-

ment, effective March 14, 1989, inserted "or loan" in Subsection (1).

The 1992 amendment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52a-4; substituted "part" for "chapter" in two places; and made stylistic changes.

**9-4-406. Authority to grant funds to political subdivisions and to extend loans to water conservancy districts — Local property tax levy — State-local share for federal funds — Grants to be based on net costs — Loan repayment — Provisions in loan agreements.**

(1) The DRB may:

(a) grant funds, within the limits of legislative appropriations, to political subdivisions to help repair, restore, reconstruct, or replace public facilities which were damaged or destroyed by a localized disaster; or

(b) extend loans, within the limits of legislative appropriations, to any water conservancy district which owned or operated a dam or dike that failed during the 1988-89 fiscal year to help repair, restore, reconstruct, replace, or conduct reasonable hazard mitigation with regard to privately-owned property that was damaged or destroyed as a result of the dam or dike failure.

(2) A political subdivision may not be granted funds under this part unless it, or the county in which it lies, has first levied a tax in the current fiscal year

of at least .0004 per dollar of taxable value of taxable property or 50% of local FEMA match, whichever is less, and applied the proceeds toward the costs of the flood or flood recovery.

(3) Notwithstanding any other provision of law to the contrary, the DRB may use the funds raised by a political subdivision in compliance with Subsection (2) toward the state-local share necessary to obtain FEMA funds and to coordinate disbursement of FEMA funds for purposes of this part. State funds granted under this part may be used, in the discretion of the DRB, toward satisfying the state-local share necessary to obtain use of FEMA funds, with a view to maximizing the federal participative proportion of disaster relief funds.

(4) With regard to those facilities subject to aid under this section which were in the process of construction when damaged or destroyed by a localized disaster, the grant shall be based on the net costs of restoring the facilities substantially to their predisaster condition.

(5) (a) Funds loaned to a water conservancy district by the DRB shall be repaid to the Water Resources Conservation and Development Fund from the assignment of revenues from water sales and revenues generated by hydroelectric plants. Repayment shall also be made pursuant to other terms and conditions set forth in the loan agreement between the DRB and the water conservancy district receiving the loaned funds.

(b) The term of any loans made to a water conservancy district under this part may not exceed 12 years.

(c) The loaned funds may not be used toward the state-local share necessary to obtain FEMA funds.

(d) Loans issued by the DRB shall be accounted for by the Division of Finance as prescribed in Section 63-65-4.

(6) Each loan agreement made under Subsection (5) shall include, among other provisions, a requirement that the water conservancy district shall obtain from each person to whom any payment of loaned funds is made in a form acceptable to the attorney general:

(a) a release of the state, its agencies and employees, and of the water conservancy district and its employees, from liability arising from the dam or dike failure; and

(b) an assignment to the state and the district of any cause of action arising from the dam or dike failure which the person has or may have against any other person or entity, but such assignment does not preclude the state from pursuing any claim against the water conservancy district, whether or not the claim is included in the assignment.

**History:** C. 1953, 63-52a-5, enacted by L. 1983 (1st S.S.), ch. 15, § 1; 1985, ch. 165, § 82; 1988, ch. 3, § 240; 1989, ch. 273, § 3; renumbered by L. 1992, ch. 241, § 132.

**Sunset.** — See note with same catchline under Part 4 heading.

**Amendment Notes.** — The 1988 amendment, effective February 9, 1988, substituted "per dollar of taxable value of taxable property" for "of assessed valuation" in Subsection (2) and made minor stylistic changes.

The 1989 amendment, effective March 14, 1989, added Subsection (1)(b), substituted "in

the current fiscal year" for "current in the calendar year 1983" in Subsection (2), added Subsections (5) and (6), and made related and stylistic changes.

The 1992 amendment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52a-5; substituted "part" for "chapter" throughout the section; and made stylistic changes.

**Retrospective Operation.** — Laws 1988, ch. 3, § 269 provides that the act has retrospective operation to January 1, 1988.

### 9-4-407. Relief and disaster organizations.

The DRB may enter into agreements to utilize relief and disaster organizations whenever the DRB finds that their utilization is necessary or useful in order to provide relief or assistance under this part.

**History:** C. 1953, 63-52a-6, enacted by L. 1983 (1st S.S.), ch. 15, § 1; renumbered by L. 1992, ch. 241, § 133.

**Sunset.** — See note with same catchline under Part 4 heading.

**Amendment Notes.** — The 1992 amendment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52a-6, and substituted "part" for "chapter."

### 9-4-408. Losses not qualifying for assistance — Recovery of excess assistance — Lapse of grants.

(1) A political subdivision suffering losses as the result of a localized disaster may not receive assistance under this part with respect to any part of the loss as to which the political subdivision has received financial assistance under any federal or other state program.

(2) The DRB shall assure that no political subdivision receives any assistance under this part for any part of a loss suffered as the result of a localized disaster if the political subdivision received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a localized disaster may not preclude additional state assistance under this part for any part of such a loss not otherwise compensated for.

(3) If the DRB determines that a political subdivision has received assistance under this part for a loss, and that the political subdivision received assistance for the same loss from another state source, and that the amount received from all state sources exceeded the amount of the loss, the DRB shall direct the political subdivision to pay to the state treasury for transfer to the Disaster Relief Account an amount not to exceed the amount of state assistance received, sufficient to reimburse the DRB for that part of the assistance which the DRB considers excessive.

(4) Any funds received by a political subdivision under this part and not used by the sunset date of the part shall lapse into the General Fund.

**History:** C. 1953, 63-52a-7, enacted by L. 1983 (1st S.S.), ch. 15, § 1; renumbered by L. 1992, ch. 241, § 134.

**Amendment Notes.** — The 1992 amendment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52a-7; substituted "part" for "chapter"

throughout the section; and made stylistic changes.

**Compiler's Notes.** — The term "sunset date of the part," in Subsection (4), means June 30, 1994, which pursuant to L. 1985, ch. 172, § 5, as amended by L. 1989, ch. 273, § 7, is the date on which this part is automatically repealed.

### 9-4-409. Plans for implementation — Reports to Legislature.

The DRB shall gather relevant information, establish an overall plan for implementing this part, and supply to the Legislature in the first week of the 1984 Budget Session and again in the first week of the 1985 General Session of the Legislature a report. That report shall describe its program for implementing this part, identify the number and dollar amount of localized disaster



requests for aid made and by whom made, what amount of funds appropriated for use under this part has been paid over by the DRB, what amount has been obligated by the DRB, what amount is unobligated though subject to pending requests for aid, and what amount is unobligated and not subject to pending requests for aid. The report shall include rules made under this part.

**History:** C. 1953, 63-52a-8, enacted by L. 1983 (1st S.S.), ch. 15, § 1; 1985, ch. 21, § 36; renumbered by L. 1992, ch. 241, § 135.

**Sunset.** — See note with same catchline under Part 4 heading.

**Amendment Notes.** — The 1992 amend-

ment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52a-8; substituted "part" for "chapter" throughout the section; and made stylistic changes.

### **9-4-410. Fraud — Violation of orders or regulations — Misapplication of funds.**

(1) A person representing a political subdivision who fraudulently or willfully misstates any fact in connection with a request for assistance under this part is guilty of a class A misdemeanor.

(2) A person who knowingly violates any order or regulation under this part is guilty of a class B misdemeanor.

(3) A person who knowingly misapplies any cash benefits obtained under any section of this part shall be subject to a fine in an amount equal to one and one-half times the original cash benefit.

**History:** C. 1953, 63-52a-9, enacted by L. 1983 (1st S.S.), ch. 15, § 1; renumbered by L. 1992, ch. 241, § 136.

**Sunset.** — See note with same catchline under Part 4 heading.

**Amendment Notes.** — The 1992 amend-

ment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52a-9, and substituted "part" for "chapter" in three places.

**Cross-References.** — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

### **9-4-411. Conditions for granting or loaning disaster relief funds — Information required by Disaster Relief Board — Approval of project design.**

(1) As a condition of any disaster relief funds granted or loans extended under this part, the receiving political subdivision shall:

(a) agree that any repair or construction to be financed with disaster relief funds shall be in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards;

(b) furnish evidence of compliance with this section as required by the DRB; and

(c) agree that the natural hazards in the areas in which the proceeds of the grants are to be used will be evaluated and appropriate action taken to mitigate those hazards, including safe land use and construction practices, in accordance with standards prescribed or approved by the DRB after adequate consultation with the governing body of the political subdivision to which the grant or loan is to be made.

(2) Whenever the DRB considers a request for disaster relief funds for a political subdivision and there is a potential for multiple county flood damage,

the political subdivision shall provide the DRB with information on the effect any project has on downstream counties. That information shall be considered as part of the DRB's criteria for approving the funding.

(3) The DRB may not grant disaster relief funds for any flood mitigation projects until the project design has been approved by the state engineer.

**History:** C. 1953, 63-52a-10, enacted by L. 1983 (1st S.S.), ch. 15, § 1; 1984, ch. 33, § 2; 1985, ch. 228, § 1; 1989, ch. 273, § 4; renumbered by L. 1992, ch. 241, § 137.

**Sunset.** — See note with same catchline under Part 4 heading.

**Amendment Notes.** — The 1989 amendment, effective March 14, 1989, inserted "or

loans extended" in the first sentence of Subsection (1), and twice inserted "or loan" in the second sentence of that subsection.

The 1992 amendment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52a-10; substituted "part" for "chapter" in Subsection (1); and made stylistic changes.

### 9-4-412. Rules.

The DRB shall, consistent with law, make rules necessary and proper to carry out the provisions of this part, including rules to facilitate the allocation of grants or loans in an equitable, impartial manner.

**History:** C. 1953, 63-52a-11, enacted by L. 1983 (1st S.S.), ch. 15, § 1; 1989, ch. 273, § 5; renumbered by L. 1992, ch. 241, § 138.

**Sunset.** — See note with same catchline under Part 4 heading.

**Amendment Notes.** — The 1989 amend-

ment, effective March 14, 1989, substituted "grants or loans" for "funds."

The 1992 amendment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52a-11; substituted "part" for "chapter"; and made stylistic changes.

### 9-4-413. Disaster Relief Restricted Account — Implementation limited.

(1) There is created the Disaster Relief Restricted Account within the General Fund.

(2) The account shall consist of money appropriated to it by the Legislature. Contributions of moneys, properties, or equipment may be received from any county, municipality, or other political subdivision of the state, federal agency, person, or corporation for use in carrying out the purposes of this chapter.

(3) The provisions of this part shall be implemented only to the extent that funds are available in the Disaster Relief Restricted Account.

**History:** C. 1953, 63-52a-12, enacted by L. 1983 (1st S.S.), ch. 15, § 1; 1989, ch. 273, § 6; renumbered by L. 1992, ch. 241, § 139.

**Sunset.** — See note with same catchline under Part 4 heading.

**Amendment Notes.** — The 1989 amendment, effective March 14, 1989, added the Subsection (1) designation, deleted the second sen-

tence of that subsection, which read: "There is hereby appropriated \$10,000,000 for the purposes of this chapter"; and added Subsection (2).

The 1992 amendment, effective March 13, 1992, renumbered this section, which formerly appeared as § 63-52a-12, and made stylistic changes.

## PART 5

### BOND VOLUME CAP ALLOCATION

**Compiler's Notes.** — Laws 1992, ch. 241 also created a Part 5 of this chapter by renumbering former Title 11, Chapter 17a, but the enactment of this part and repeal of Title 11, Chapter 17a by L. 1992, ch. 287 have been given precedence, except for the renumbering of § 9-4-509, by the Office of Legislative Research and General Counsel.

#### 9-4-501. Legislative intent.

It is the intent of the Legislature to establish procedures to most effectively and equitably allocate this state's private activity bond volume cap authorized by the Internal Revenue Code of 1986 in order to maximize the social and economic benefits to this state.

**History:** C. 1953, 9-4-501, enacted by L. § 10 makes the act effective on March 17, 1992, ch. 287, § 1. 1992.

**Effective Dates.** — Laws 1992, ch. 287,

#### 9-4-502. Definitions.

As used in this part:

(1) "Allocated volume cap" means any volume cap for which a certificate of allocation is in effect or for which bonds have been issued.

(2) "Allotment accounts" means the various accounts created in Section 9-4-506.

(3) "Board of review" means the Private Activity Bond Review Board created in Section 9-4-503.

(4) "Bond" means any obligation for which an allocation of volume cap is required by the code.

(5) "Code" means the Internal Revenue Code of 1986, as amended, and any related Internal Revenue Service regulations.

(6) "Form 8038" means the Department of the Treasury tax form 8038 (OMB No. 1545-0720) or any other federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the code.

(7) "Issuing authority" means:

(a) any county, city, or town in the state;

(b) any not-for-profit corporation or joint agency, or other entity acting on behalf of one or more counties, cities, towns, or any combination of these;

(c) the state; or

(d) any other entity authorized to issue bonds under state law.

(8) "State" means the state of Utah and any of its agencies, institutions, and divisions authorized to issue bonds or certificates under state law.

(9) "Volume cap" means the private activity bond volume cap for the state as computed under Section 146 of the code.

(10) "Year" means each calendar year beginning calendar year 1992.

**History:** C. 1953, 9-4-502, enacted by L. 1992, ch. 287, § 2.

**Federal Law.** — The Internal Revenue Code of 1986, referred to in Subsection (5), is Title 26 of the U.S. Code.

**Effective Dates.** — Laws 1992, ch. 287, § 10 makes the act effective on March 17, 1992.

### 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 chairman of the Board of Regents or his designee; and
- (iv) the chairman of the Utah Housing Finance Agency 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; and
- (ii) three elected or appointed municipal officials, nominated by the Utah League of Cities and Towns and appointed by the governor.

(2) (a) The terms of office for the local government members of the board of review shall be staggered four-year terms.

(b) Members may be reappointed only once.

(c) 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. Within 30 days this vacancy shall be filled in the manner of the regular appointment, and the person appointed shall serve only to the end of the unexpired term and until his successor is appointed and qualified.

(3) The chairman of the board of review shall be the executive director of the department or his designee. The chairman shall be non-voting except in the case of a tie vote.

(4) Five members of the board of review constitutes a quorum.

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

(6) Members shall receive all actual and necessary expenses incurred in carrying out their official duties.

(7) The chairman 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.

**History:** C. 1953, 9-4-503, enacted by L. 1992, ch. 287, § 3.

**Effective Dates.** — Laws 1992, ch. 287, § 10 makes the act effective on March 17, 1992.

**Cross-References.** — Board of Regents, chairman, § 53B-1-104.

Housing Finance Agency, § 9-4-904.  
State treasurer, § 67-4-1 et seq.

**9-4-504. Powers, functions, and duties of board of review.**

The board of review shall:

- (1) make, subject to the limitations of the code, allocations of volume cap to issuing authorities;
- (2) determine the amount of volume cap to be allocated with respect to approved applications;
- (3) maintain a record of all applications filed by issuing authorities under Section 9-4-505 and all certificates of allocation issued under Section 9-4-506;
- (4) maintain a record of all bonds issued by issuing authorities during each year;
- (5) determine the amount of volume cap to be treated as a carryforward under Section 146(f) of the code and allocate this carryforward to one or more qualified carryforward purposes;
- (6) make available upon reasonable request a certified copy of all or any part of the records maintained by the board of review under this part or a summary of them including information relating to the volume cap for each year and any amounts available for allocation under this part;
- (7) promulgate rules for the allocation of volume cap under this part; and
- (8) charge reasonable fees for the performance of duties prescribed by this part, including application, filing, and processing fees.

**History:** C. 1953, 9-4-504, enacted by L. § 10 makes the act effective on March 17, 1992, ch. 287, § 4. 1992.

**Effective Dates.** — Laws 1992, ch. 287,

**9-4-505. Allocation of volume cap.**

(1) The volume cap for each year shall be distributed by the board of review to the various allotment accounts as set forth in Section 9-4-506.

(2) In order to obtain an allocation of the volume cap, issuing authorities shall submit to the board of review an application containing information required by the procedures and processes as the board of review.

(3) The board of review shall establish criteria for making allocations of volume cap that are consistent with the purposes of the code and this part. In making an allocation of volume cap the board of review shall consider the following:

- (a) the principal amount of the bonds proposed to be issued;
  - (b) the nature and the location of the project or the type of program;
  - (c) the likelihood that the bonds will be sold and the timeframe of bond issuance;
  - (d) the degree to which an allocation of volume cap is required for the project or program to proceed or continue;
  - (e) the social, health, economic, and educational effects of the project or program on the local community and state as a whole; and
  - (f) the anticipated number of jobs, both temporary and permanent, created or retained within the local community and the state as a whole.
- (4) The board of review shall evidence an allocation of volume cap by issuing a certificate in accordance with Section 9-4-507.

**History:** C. 1953, 9-4-505, enacted by L. § 10 makes the act effective on March 17, 1992, ch. 287, § 5.

**Effective Dates.** — Laws 1992, ch. 287,

## 9-4-506. Allotment accounts.

- (1) There are created the following allotment accounts:
  - (a) the Single Family Housing Account, for which eligible issuing authorities are those authorized under the code and state statute to issue qualified mortgage bonds under Section 143 of the code;
  - (b) the Student Loan Account, for which eligible issuing authorities are those authorized under the code and state statute to issue qualified student loan bonds under Section 144(b) of the code;
  - (c) the Small Issue Bond Account, for which eligible issuing authorities are those authorized under the code and state statute to issue qualified small issue bonds under Section 144(a) of the code or qualified exempt facility bonds for qualified residential rental projects under Section 142(d) of the code;
  - (d) the Exempt Facilities Account, for which eligible issuing authorities are those authorized under the code and state statute to issue bonds requiring an allocation of volume cap other than for purposes described in Subsections (a), (b), or (c);
  - (e) the Pool Account, for which eligible issuing authorities are those authorized under the code and state statute to issue bonds requiring an allocation of volume cap; and
  - (f) the Carryforward Account, for which eligible issuing authorities are those with projects or programs qualifying under Section 146(f) of the code.
- (2) (a) The volume cap shall be distributed to the various allotment accounts on January 1 of each year on the following basis:
  - (i) 34% to the Single Family Housing Account;
  - (ii) 33% to the Student Loan Account;
  - (iii) 20% to the Exempt Facilities Account; and
  - (iv) 13% to the Small Issue Bond Account.
  - (b) From July 1 to September 30 of each year, the board of review may transfer any unallocated volume cap from the Exempt Facilities Account or the Small Issue Bond Account to the Pool Account.
  - (c) The board of review, upon written notification by the issuing authorities eligible for volume cap allocation from the Single Family Housing Account or the Student Loan Account that all or a portion of volume cap distributed into that allotment account will not be utilized, may transfer such volume cap between the Single Family Housing Account and the Student Loan Account.
  - (d) From October 1 to the third Friday of December of each year, all unallocated volume cap shall be transferred into the Pool Account.
  - (e) Unallocated volume cap or allocated volume cap for which bonds have not been issued prior to the third Saturday of December shall be transferred on that date into the Carryforward Account.
  - (f) If the authority to issue bonds designated in any allotment account is rescinded by amendment to the code, the board of review may transfer any unallocated volume cap from such allotment account to any other allotment account.

**History:** C. 1953, 9-4-506, enacted by L. § 10 makes the act effective on March 17, 1992, ch. 287, § 6.  
**Effective Dates.** — Laws 1992, ch. 287, 1992.

### 9-4-507. Certificates of allocation.

(1) (a) After an allocation of volume cap for a project or program is approved by the board of review a numbered certificate of allocation shall be issued stating the amount of the allocation, the allotment account for which the allocation is being made, and the expiration date of the allocation.

(b) The certificates of allocation shall be mailed to the issuing authority within ten working days of the date of approval.

(c) No bonds are entitled to any allocation of the volume cap unless the issuing authority received a certificate of allocation with respect to the bonds.

(d) Certificates of allocation shall remain in effect for a period of 90 days from the date of approval. If bonds for which a certificate has been approved are not issued within the 90-day period, the certificate of allocation is void and volume cap shall be returned to the applicable allotment account for reallocation by the board of review.

(2) (a) An issuing authority receiving an allocation of volume cap from the Carryforward Account shall receive a certificate of allocation similar to the certificates of allocation described in Subsection (1) from the board of review stating the amount of allocation from the Carryforward Account that have been allocated to the issuing authority and the expiration of the allocation.

(b) If in the judgment of the board of review any issuing authority or any person or entity responsible for a project or program receiving an allocation from the Carryforward Account does not proceed with diligence in providing for the issuance of the bonds with respect to the project or program, and because of the lack of such diligence the volume cap cannot be used, the board of review may exclude from its consideration for a given period of time, determined by the board of review, applications of these issuing authorities or persons or entities. The board of review may, at any time, review and modify its decisions relating to this exclusion.

**History:** C. 1953, 9-4-507, enacted by L. § 10 makes the act effective on March 17, 1992, ch. 287, § 7.  
**Effective Dates.** — Laws 1992, ch. 287, 1992.

### 9-4-508. Issuing authorities — Limitations — Duties.

(1) After May 1, 1992, any other law to the contrary notwithstanding, any issuing authority issuing bonds without a certificate of allocation issued under Section 9-4-507, or any issuing authority issuing bonds after the expiration of any certificate of allocation, is not entitled to an allocation of the volume cap for those bonds. Any issuing authority issuing bonds in excess of the amount set forth in the related certificate of allocation is not entitled to an allocation of the volume cap for the excess.

(2) Notwithstanding Subsection 9-4-506(2) to the contrary, the board of review may distribute all available volume cap for calendar year 1992 to the

various allotment accounts established in this part as it determines after taking into account generally:

- (a) the percentage distributions required by Subsection 9-4-506(2) for subsequent years; and
  - (b) the purposes for which volume cap has been used or for which allocations of volume cap have been made during calendar year 1992, prior to the effective date of this part.
- (3) Each issuing authority shall:
- (a) advise the board of review, within 15 days after the issuance of bonds, of the principal amount of bonds issued under each certificate of allocation by delivering to the board of review a copy of the Form 8038 that was delivered or shall be delivered to the Internal Revenue Service in connection with the bonds, or, if no Form 8038 is required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the board of review with respect to the bonds; and
  - (b) if all or a stated portion of the bonds for which a certificate of allocation was received will not be issued, advise the board of review in writing, within 15 days of the earlier of:
    - (i) the final decision not to issue all or a stated portion of the bonds; or
    - (ii) the expiration of the certificate of allocation.
- (4) Failure by an issuing authority to so notify the board of review, including failure to timely deliver a Form 8038, may, in the sole discretion of the board of review, result in the issuing authority being denied further consideration of applications.

**History:** C. 1953, 9-4-508, enacted by L. 1992, ch. 287, § 8. § 10 makes the act effective on March 17, 1992.

**Effective Dates.** — Laws 1992, ch. 287,

## 9-4-509. Procedures — Adjudicative proceedings.

The board of review shall comply with the procedures and requirements of Title 63, Chapter 46b, in its adjudicative proceedings.

**History:** C. 1953, 11-17a-8.5, enacted by L. 1987, ch. 161, § 26; renumbered by L. 1992, ch. 241, § 148. ment, effective March 13, 1992, renumbered this section, which formerly appeared as § 11-17a-8.5.

**Amendment Notes.** — The 1992 amend-

## PART 6 HOUSING AUTHORITIES

### 9-4-601. Legislative policy and purpose.

(1) It is declared to be the policy of the state of Utah to promote the general welfare of its citizens and that it is necessary to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of medium and low income, in urban and rural areas. These conditions cause an increase and spread of disease and crime, and constitute a menace to the health, safety, morals, and welfare of the state.