

1 **POINT OF THE MOUNTAIN STATE LAND AUTHORITY**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: V. Lowry Snow**

5 Senate Sponsor: Jerry W. Stevenson

7 **LONG TITLE**

8 **General Description:**

9 This bill enacts provisions relating to the development of state land in the point of the
10 mountain area.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ creates the Point of the Mountain State Land Authority and provides for its
- 14 purposes, authority, duties, and governance;
- 15 ▶ requires the authority to plan, manage, and implement the development of point of
- 16 the mountain state land;
- 17 ▶ provides for the membership, authority, and responsibilities of a board to conduct
- 18 the business and affairs of the authority;
- 19 ▶ requires the authority to adopt a budget and imposes reporting and audit
- 20 requirements; and
- 21 ▶ provides for authority dissolution.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 ENACTS:

28 **11-58-101**, Utah Code Annotated 1953

- 29 [11-58-102](#), Utah Code Annotated 1953
- 30 [11-58-103](#), Utah Code Annotated 1953
- 31 [11-58-201](#), Utah Code Annotated 1953
- 32 [11-58-202](#), Utah Code Annotated 1953
- 33 [11-58-203](#), Utah Code Annotated 1953
- 34 [11-58-204](#), Utah Code Annotated 1953
- 35 [11-58-301](#), Utah Code Annotated 1953
- 36 [11-58-302](#), Utah Code Annotated 1953
- 37 [11-58-303](#), Utah Code Annotated 1953
- 38 [11-58-304](#), Utah Code Annotated 1953
- 39 [11-58-305](#), Utah Code Annotated 1953
- 40 [11-58-306](#), Utah Code Annotated 1953
- 41 [11-58-401](#), Utah Code Annotated 1953
- 42 [11-58-402](#), Utah Code Annotated 1953
- 43 [11-58-403](#), Utah Code Annotated 1953
- 44 [11-58-404](#), Utah Code Annotated 1953
- 45 [11-58-501](#), Utah Code Annotated 1953



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

48 Section 1. Section **11-58-101** is enacted to read:

49 **CHAPTER 58. POINT OF THE MOUNTAIN STATE LAND AUTHORITY ACT**

50 **Part 1. General Provisions**

51 **11-58-101. Title.**

52 This chapter is known as the "Point of the Mountain State Land Authority Act."

53 Section 2. Section **11-58-102** is enacted to read:

54 **11-58-102. Definitions.**

55 As used in this chapter:

56 (1) "Authority" means the Point of the Mountain State Land Authority, created in
57 Section 11-58-201.

58 (2) "Board" means the authority's board, created in Section 11-58-301.

59 (3) "Development":

60 (a) means the construction, reconstruction, modification, expansion, or improvement of
61 a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or
62 other facility, including:

63 (i) the demolition or preservation or repurposing of a building, infrastructure, or other
64 facility;

65 (ii) surveying, testing, locating existing utilities and other infrastructure, and other
66 preliminary site work; and

67 (iii) any associated planning, design, engineering, and related activities; and

68 (b) includes all activities associated with:

69 (i) marketing and business recruiting activities and efforts;

70 (ii) leasing, or selling or otherwise disposing of, all or any part of the point of the
71 mountain state land; and

72 (iii) planning and funding for mass transit infrastructure to service the point of the
73 mountain state land.

74 (4) "New correctional facility" means the state correctional facility being developed in
75 Salt Lake City to replace the state correctional facility in Draper.

76 (5) "Point of the mountain state land" means the approximately 700 acres of
77 state-owned land in Draper, including land used for the operation of a state correctional facility
78 until completion of the new correctional facility and state-owned land in the vicinity of the
79 current state correctional facility.

80 Section 3. Section **11-58-103** is enacted to read:

81 **11-58-103. Scope of chapter -- Limit on selling or leasing point of the mountain**
82 **state land -- No effect on prison operations.**

83 (1) This chapter governs the management of the point of the mountain state land, and
84 the process of planning, managing, and implementing the development of the point of the
85 mountain state land:

- 86 (a) beginning May 8, 2018;
- 87 (b) subject to Subsection (3), during the transition period as prison operations on the
88 point of the mountain state land continue and eventually wind down in anticipation of the
89 relocation of prison operations to the new correctional facility; and
- 90 (c) upon and after the transfer of prison operations to the new correctional facility.

91 (2) No part of the point of the mountain state land may be sold or otherwise disposed
92 of or leased without the approval of the board.

93 (3) Nothing in this chapter may be construed to authorize the authority to:

- 94 (a) manage, oversee, or otherwise affect prison operations conducted on the point of
95 the mountain state land; or
- 96 (b) take an action that would impair or interfere with prison operations conducted on
97 the point of the mountain state land.

98 Section 4. Section **11-58-201** is enacted to read:

99 **Part 2. Point of the Mountain State Land Authority**

100 **11-58-201. Creation of Point of the Mountain State Land Authority -- Status and**
101 **duties of authority.**

- 102 (1) There is created the Point of the Mountain State Land Authority.
- 103 (2) The authority is:
 - 104 (a) an independent, nonprofit, separate body corporate and politic, with perpetual
105 succession, whose purpose is to facilitate the development of state land;
 - 106 (b) a political subdivision of the state; and
 - 107 (c) a public corporation, as defined in Section [63E-1-102](#).
- 108 (3) Subject to Subsection [11-58-103](#)(3), the authority shall manage the point of the
109 mountain state land and shall plan, manage, and implement the development of the point of the

110 mountain state land:

111 (a) beginning May 8, 2018;

112 (b) during the transition period as prison operations on the point of the mountain state
113 land continue and eventually wind down in anticipation of the relocation of prison operations
114 to the new correctional facility; and

115 (c) upon and after the transfer of prison operations to the new correctional facility.

116 Section 5. Section **11-58-202** is enacted to read:

117 **11-58-202. Authority powers.**

118 The authority may:

119 (1) as provided in this chapter, plan, manage, and implement the development of the
120 point of the mountain state land, including the ongoing operation of facilities on the point of
121 the mountain state land;

122 (2) undertake, or engage a consultant to undertake, any study, effort, or activity the
123 board considers appropriate to assist or inform the board about any aspect of the proposed
124 development of the point of the mountain state land, including the best development model and
125 financial projections relevant to the authority's efforts to fulfill its duties and responsibilities
126 under this section and Section [11-58-203](#);

127 (3) sue and be sued;

128 (4) enter into contracts generally;

129 (5) buy, obtain an option upon, or otherwise acquire any interest in real or personal
130 property, as necessary to accomplish the duties and responsibilities of the authority, including
131 an interest in real property, apart from point of the mountain state land, or personal property,
132 outside point of the mountain state land, for publicly owned infrastructure and improvements,
133 if the board considers the purchase, option, or other interest acquisition to be necessary for
134 fulfilling the authority's development objectives;

135 (6) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or
136 personal property;

137 (7) enter into a lease agreement on real or personal property, either as lessee or lessor;

138 (8) provide for the development of the point of the mountain state land under one or

139 more contracts;

140 (9) exercise powers and perform functions under a contract, as authorized in the

141 contract;

142 (10) accept financial or other assistance from any public or private source for the

143 authority's activities, powers, and duties, and expend any funds so received for any of the

144 purposes of this chapter;

145 (11) borrow money, contract with, or accept financial or other assistance from the

146 federal government, a public entity, or any other source for any of the purposes of this chapter

147 and comply with any conditions of the loan, contract, or assistance;

148 (12) issue bonds to finance the undertaking of any development objectives of the

149 authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and

150 Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

151 (13) hire employees, including contract employees, in addition to or in place of staff

152 provided under Section [11-58-304](#);

153 (14) transact other business and exercise all other powers provided for in this chapter;

154 (15) enter into a development agreement with a developer of some or all of the point of

155 the mountain state land;

156 (16) provide for or finance an energy efficiency upgrade, a renewable energy system, or

157 electric vehicle charging infrastructure as defined in Section [11-42-102](#), in accordance with

158 Title 11, Chapter 42, Assessment Area Act;

159 (17) exercise powers and perform functions that the authority is authorized by statute

160 to exercise or perform;

161 (18) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal

162 Cooperation Act, with one or more local government entities for the delivery of services to the

163 point of the mountain state land; and

164 (19) enter into an agreement with the federal government or an agency of the federal
165 government, as the board considers necessary or advisable, to enable or assist the authority to
166 exercise its powers or fulfill its duties and responsibilities under this chapter.

167 Section 6. Section **11-58-203** is enacted to read:

168 **11-58-203. Authority duties and responsibilities.**

169 (1) As the authority plans, manages, and implements the development of the point of
170 the mountain state land, the authority shall pursue development strategies and objectives
171 designed to:

172 (a) maximize the creation of high-quality jobs and encourage and facilitate a highly
173 trained workforce;

174 (b) ensure strategic residential and commercial growth;

175 (c) promote a high quality of life for residents on and surrounding the point of the
176 mountain state land, including strategic planning to facilitate:

177 (i) jobs close to where people live;

178 (ii) vibrant urban centers;

179 (iii) housing types that match workforce needs;

180 (iv) parks, connected trails, and open space, including the preservation of natural lands
181 to the extent practicable and consistent with the overall development plan; and

182 (v) preserving and enhancing recreational opportunities;

183 (d) complement the development on land in the vicinity of the point of the mountain
184 state land;

185 (e) improve air quality and minimize resource use; and

186 (f) accommodate and incorporate the planning, funding, and development of an
187 enhanced and expanded future transit and transportation infrastructure and other investments,
188 including:

189 (i) the acquisition of rights-of-way and property necessary to ensure transit access to
190 the point of the mountain state land; and

191 (ii) a world class mass transit infrastructure, to service the point of the mountain state
192 land and to enhance mobility and protect the environment.

193 (2) In planning the development of the point of the mountain state land, the authority
194 shall:

195 (a) consult with applicable governmental planning agencies, including:

196 (i) relevant metropolitan planning organizations; and

197 (ii) Draper City and Salt Lake County planning and governing bodies;

198 (b) research and explore the feasibility of attracting a nationally recognized research
199 center; and

200 (c) research and explore the appropriateness of including labor training centers and a
201 higher education presence on the point of the mountain state land.

202 Section 7. Section **11-58-204** is enacted to read:

203 **11-58-204. Applicability of other law -- Coordination with municipality.**

204 (1) The authority and the point of the mountain state land are not subject to:

205 (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

206 (b) the jurisdiction of a local district under Title 17B, Limited Purpose Local

207 Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1,
208 Special Service District Act, except to the extent that:

209 (i) some or all of the point of the mountain state land is, on May 8, 2018, included
210 within the boundary of a local district or special service district; and

211 (ii) the authority elects to receive service from the local district or special service
212 district for the point of the mountain state land that is included within the boundary of the local
213 district or special service district, respectively.

214 (2) In formulating and implementing a development plan for the point of the mountain
215 state land, the authority shall consult with officials of the municipality within which the point
216 of the mountain state land is located on planning and zoning matters.

217 (3) The authority is subject to and governed by Sections [63E-2-106](#), [63E-2-107](#),

218 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed
219 by Title 63E, Independent Entities Code.

220 (4) Nothing in this chapter may be construed to remove the point of the mountain state
221 land from the service area of the municipality in which the point of the mountain state land is
222 located, for purposes of water, sewer, and other similar municipal services currently being
223 provided.

224 Section 8. Section **11-58-301** is enacted to read:

225 **Part 3. Authority Board**

226 **11-58-301. Authority board -- Delegation of power.**

227 (1) The authority shall be governed by a board, which shall manage and conduct the
228 business and affairs of the authority and shall determine all questions of authority policy.

229 (2) All powers of the authority are exercised through the board.

230 (3) The board may by resolution delegate powers to authority staff.

231 Section 9. Section **11-58-302** is enacted to read:

232 **11-58-302. Number of board members -- Appointment -- Vacancies -- Chairs.**

233 (1) The board shall consist of 11 members as provided in Subsection (2).

234 (2) (a) The president of the Senate shall appoint two members of the Senate to serve as
235 members of the board.

236 (b) The speaker of the House of Representatives shall appoint two members of the
237 House of Representatives to serve as members of the board.

238 (c) The governor shall appoint four individuals to serve as members of the board:

239 (i) one of whom shall be a member of the board of or employed by the Governor's
240 Office of Economic Development, created in Section [63N-1-201](#); and

241 (ii) one of whom shall be an employee of the Division of Facilities Construction and
242 Management, created in Section [63A-5-201](#).

243 (d) The Salt Lake County mayor shall appoint one board member, who shall be an
244 elected Salt Lake County government official.

245 (e) The mayor of Draper, or a member of the Draper city council that the mayor
246 designates, shall serve as a board member.

247 (f) The commissioner of higher education, appointed under Section 53B-1-105, or the
248 commissioner's designee, shall serve as a board member.

249 (3) (a) (i) Subject to Subsection (3)(a)(ii), a vacancy on the board shall be filled in the
250 same manner under this section as the appointment of the member whose vacancy is being
251 filled.

252 (ii) If the mayor of Draper or commissioner of higher education is removed as a board
253 member under Subsection (5), the mayor of Draper or commissioner of higher education, as the
254 case may be, shall designate an individual to serve as a member of the board, as provided in
255 Subsection (2)(e) or (f), respectively.

256 (b) Each person appointed or designated to fill a vacancy shall serve the remaining
257 unexpired term of the member whose vacancy the person is filling.

258 (4) A member of the board appointed by the governor, president of the Senate, or
259 speaker of the House of Representatives serves at the pleasure of and may be removed and
260 replaced at any time, with or without cause, by the governor, president of the Senate, or speaker
261 of the House of Representatives, respectively.

262 (5) A member of the board may be removed by a vote of two-thirds of all members of
263 the board.

264 (6) (a) The governor shall appoint one board member to serve as cochair of the board.

265 (b) The president of the Senate and speaker of the House of Representatives shall
266 jointly appoint one legislative member of the board to serve as cochair of the board.

267 Section 10. Section **11-58-303** is enacted to read:

268 **11-58-303. Term of board members -- Quorum requirements -- Compensation.**

269 (1) The term of each board member appointed under Subsection 11-58-302(2)(a), (b),
270 (c), or (d) is four years, except that the initial term of half of the members appointed under
271 Subsections 11-58-302(2)(a), (b), and (c) is two years.

272 (2) Each board member shall serve until a successor is duly appointed and qualified.

273 (3) A majority of board members constitutes a quorum, and, except as provided in

274 Subsection [11-58-302\(5\)](#), the action of a majority of a quorum constitutes the action of the

275 board.

276 (4) (a) A board member who is not a legislator may not receive compensation or

277 benefits for the member's service on the board, but may receive per diem and expense

278 reimbursement for travel expenses incurred as a board member as allowed in:

279 (i) Sections [63A-3-106](#) and [63A-3-107](#); and

280 (ii) rules made by the Division of Finance according to Sections [63A-3-106](#) and

281 [63A-3-107](#).

282 (b) Compensation and expenses of a board member who is a legislator are governed by

283 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

284 Section 11. Section **11-58-304** is enacted to read:

285 **11-58-304. Staff and other support services -- Cooperation from state and local**

286 **government entities.**

287 (1) As used in this section:

288 (a) "Division" means the Division of Facilities Construction and Management, created

289 in Section [63A-5-201](#).

290 (b) "Office" means the Governor's Office of Economic Development, created in

291 Section [63N-1-201](#).

292 (2) If and as requested by the board:

293 (a) the division shall:

294 (i) provide staff support to the board; and

295 (ii) make available to the board existing division resources and expertise to assist the

296 board in the development, marketing, and disposition of the point of the mountain state land;

297 and

298 (b) the office shall cooperate with and provide assistance to the board in the board's:

299 (i) formulation of a development plan for the point of the mountain state land; and
300 (ii) management and implementation of a development plan, including the marketing
301 of property and recruitment of businesses and others to locate on the point of the mountain
302 state land.

303 (3) A department, division, or other agency of the state and a political subdivision of
304 the state shall cooperate with the authority and the board to the fullest extent possible to
305 provide whatever support, information, or other assistance the board requests that is reasonably
306 necessary to help the authority fulfill its duties and responsibilities under this chapter.

307 Section 12. Section **11-58-305** is enacted to read:

308 **11-58-305. Considering recommendations of the Point of the Mountain**
309 **Development Commission -- Board recommendations on financing.**

310 (1) In fulfilling its responsibilities under this chapter and in accomplishing the
311 purposes of the authority under this chapter, the board shall:

312 (a) consider the recommendations of the Point of the Mountain Development
313 Commission, created in Section [63C-17-103](#); and

314 (b) to the extent the board determines practicable, plan, manage, and implement the
315 development of the point of the mountain state land consistent with those recommendations.

316 (2) Before November 30, 2018, the board shall make recommendations to the
317 Legislative Management Committee of the Legislature concerning potential revenue sources
318 for the development of the point of the mountain state land.

319 Section 13. Section **11-58-306** is enacted to read:

320 **11-58-306. Limitations on board members.**

321 (1) As used in this section:

322 (a) "Direct financial benefit":

323 (i) means any form of financial benefit that accrues to an individual directly as a result
324 of the development of the point of the mountain state land, including:

325 (A) compensation, commission, or any other form of a payment or increase of money;

326 and

327 (B) an increase in the value of a business or property; and

328 (ii) does not include a financial benefit that accrues to the public generally as a result of
329 the development of the point of the mountain state land.

330 (b) "Family member" means a parent, spouse, sibling, child, or grandchild.

331 (c) "Interest in real property" means every type of real property interest, whether
332 recorded or unrecorded, including:

333 (i) a legal or equitable interest;

334 (ii) an option on real property;

335 (iii) an interest under a contract;

336 (iv) fee simple ownership;

337 (v) ownership as a tenant in common or in joint tenancy or another joint ownership
338 arrangement;

339 (vi) ownership through a partnership, limited liability company, or corporation that
340 holds title to a real property interest in the name of the partnership, limited liability company,
341 or corporation;

342 (vii) leasehold interest; and

343 (viii) any other real property interest that is capable of being owned.

344 (2) An individual may not serve as a member of the board if:

345 (a) the individual owns an interest in real property, other than a personal residence in
346 which the individual resides, within five miles of the point of the mountain state land;

347 (b) a family member of the individual owns an interest in real property, other than a
348 personal residence in which the family member resides, located within one-half mile of the
349 point of the mountain state land; or

350 (c) the individual or a family member of the individual owns an interest in, is directly
351 affiliated with, or is an employee or officer of a firm, company, or other entity that the
352 individual reasonably believes is likely to participate in or receive compensation or other direct

353 financial benefit from the development of the point of the mountain state land.

354 (3) Before taking office as a board member, an individual shall submit to the authority
355 a statement verifying that the individual's service as a board member does not violate
356 Subsection (2).

357 (4) A board member may not, at any time during the board member's service on the
358 board, take any action to initiate, negotiate, or otherwise arrange for the acquisition of an
359 interest in real property located within five miles of the point of the mountain state land.

360 (5) (a) The board may not allow a firm, company, or other entity to participate in
361 planning, managing, or implementing the development of the point of the mountain state land
362 if a board member or a family member of a board member owns an interest in, is directly
363 affiliated with, or is an employee or officer of the firm, company, or other entity.

364 (b) Before allowing a firm, company, or other entity to participate in planning,
365 managing, or implementing the development of the point of the mountain state land, the board
366 may require the firm, company, or other entity to certify that no board member or family
367 member of a board member owns an interest in, is directly affiliated with, or is an employee or
368 officer of the firm, company, or other entity.

369 Section 14. Section **11-58-401** is enacted to read:

370 **Part 4. Authority Budget and Reporting Requirements**

371 **11-58-401. Annual authority budget -- Fiscal year -- Public hearing and notice**
372 **required -- Auditor forms.**

373 (1) The authority shall prepare and its board adopt an annual budget of revenues and
374 expenditures for the authority for each fiscal year.

375 (2) Each annual authority budget shall be adopted before June 22.

376 (3) The authority's fiscal year shall be the period from July 1 to the following June 30.

377 (4) (a) Before adopting an annual budget, the authority board shall hold a public
378 hearing on the annual budget.

379 (b) The authority shall provide notice of the public hearing on the annual budget by

380 publishing notice:

381 (i) at least once in a newspaper of general circulation within the state, one week before
382 the public hearing; and

383 (ii) on the Utah Public Notice Website created in Section [63F-1-701](#), for at least one
384 week immediately before the public hearing.

385 (c) The authority shall make the annual budget available for public inspection at least
386 three days before the date of the public hearing.

387 (5) The state auditor shall prescribe the budget forms and the categories to be contained
388 in each authority budget, including:

389 (a) revenues and expenditures for the budget year;

390 (b) legal fees; and

391 (c) administrative costs, including rent, supplies, and other materials, and salaries of
392 authority personnel.

393 Section 15. Section **11-58-402** is enacted to read:

394 **11-58-402. Amending the authority annual budget.**

395 (1) The authority board may by resolution amend an annual authority budget.

396 (2) An amendment of the annual authority budget that would increase the total
397 expenditures may be made only after public hearing by notice published as required for initial
398 adoption of the annual budget.

399 (3) The authority may not make expenditures in excess of the total expenditures
400 established in the annual budget as it is adopted or amended.

401 Section 16. Section **11-58-403** is enacted to read:

402 **11-58-403. Audit requirements.**

403 The authority shall comply with the audit requirements of Title 51, Chapter 2a,
404 Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local
405 Entities Act.

406 Section 17. Section **11-58-404** is enacted to read:

407 **11-58-404. Authority chief financial officer is a public treasurer -- Certain**
408 **authority funds are public funds.**

409 (1) The authority's chief financial officer:

410 (a) is a public treasurer, as defined in Section 51-7-3; and

411 (b) shall invest the authority funds specified in Subsection (2) as provided in that
412 subsection.

413 (2) Notwithstanding Subsection 63E-2-110(2)(a), appropriations that the authority
414 receives from the state:

415 (a) are public funds; and

416 (b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

417 Section 18. Section **11-58-501** is enacted to read:

418 **Part 5. Authority Dissolution**

419 **11-58-501. Dissolution of authority -- Restrictions -- Publishing notice of**
420 **dissolution -- Authority records -- Dissolution expenses.**

421 (1) The authority may not be dissolved unless:

422 (a) the authority board first receives approval from the Legislative Management
423 Committee of the Legislature to dissolve the authority; and

424 (b) the authority has no outstanding bonded indebtedness, other unpaid loans,
425 indebtedness, or advances, and no legally binding contractual obligations with persons or
426 entities other than the state.

427 (2) To dissolve the authority, the board shall:

428 (a) obtain the approval of the Legislative Management Committee of the Legislature;
429 and

430 (b) adopt a resolution dissolving the authority, to become effective as provided in the
431 resolution.

432 (3) Upon the dissolution of the authority:

433 (a) the Governor's Office of Economic Development shall publish a notice of

- 434 dissolution:
- 435 (i) in a newspaper of general circulation in the county in which the dissolved authority
- 436 is located; and
- 437 (ii) as required in Section [45-1-101](#); and
- 438 (b) all title to property owned by the authority vests in the Division of Facilities
- 439 Construction and Management, created in Section [63A-5-201](#), for the benefit of the state.
- 440 (4) The board shall deposit all books, documents, records, papers, and seal of the
- 441 dissolved authority with the state auditor for safekeeping and reference.
- 442 (5) The authority shall pay all expenses of the deactivation and dissolution.