

## HB0372S01 compared with HB0372

~~{deleted text}~~ shows text that was in HB0372 but was deleted in HB0372S01.

Inserted text shows text that was not in HB0372 but was inserted into HB0372S01.

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Representative V. Lowry Snow proposes the following substitute bill:

### POINT OF THE MOUNTAIN STATE LAND AUTHORITY

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: V. Lowry Snow**

Senate Sponsor: Jerry W. Stevenson

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#### LONG TITLE

##### General Description:

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

##### Highlighted Provisions:

This bill:

- ▶ creates the Point of the Mountain State Land Authority and provides for its purposes, authority, duties, and governance;
- ▶ requires the authority to plan, manage, and implement the development of point of the mountain state land;
- ▶ provides for the membership, authority, and responsibilities of a board to conduct the business and affairs of the authority;
- ▶ requires the authority to adopt a budget and imposes reporting and audit

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requirements; and

- ▶ provides for authority dissolution.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

ENACTS:

11-58-101, Utah Code Annotated 1953

11-58-102, Utah Code Annotated 1953

11-58-103, Utah Code Annotated 1953

~~{ 11-58-104, Utah Code Annotated 1953~~

{ 11-58-201, Utah Code Annotated 1953

11-58-202, Utah Code Annotated 1953

11-58-203, Utah Code Annotated 1953

11-58-204, Utah Code Annotated 1953

11-58-301, Utah Code Annotated 1953

11-58-302, Utah Code Annotated 1953

11-58-303, Utah Code Annotated 1953

11-58-304, Utah Code Annotated 1953

11-58-305, Utah Code Annotated 1953

11-58-306, Utah Code Annotated 1953

11-58-401, Utah Code Annotated 1953

11-58-402, Utah Code Annotated 1953

11-58-403, Utah Code Annotated 1953

11-58-404, Utah Code Annotated 1953

11-58-501, Utah Code Annotated 1953

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

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

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

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## Part 1. General Provisions

### 11-58-101. Title.

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

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

### 11-58-102. Definitions.

As used in this chapter:

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

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

(3) "Development":

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

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

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

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

(b) includes all activities associated with:

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

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

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

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

(5) "Point of the mountain state land"~~:~~

~~(a)~~ means the approximately 700 acres of state-owned land in Draper, ~~including land~~ used for the operation of a state correctional facility until completion of the new correctional facility~~; and~~ and~~:~~

~~(b) does not include~~ state-owned land ~~{that is used for a purpose other than}~~in the

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~~operation~~ vicinity of ~~a~~ the current state correctional facility.

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

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

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

(a) beginning May 8, 2018;

(b) subject to Subsection (3), during the transition period as prison operations on the point of the mountain state land continue and eventually wind down in anticipation of the relocation of prison operations to the new correctional facility; and

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

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

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

(a) manage, oversee, or otherwise affect prison operations conducted on the point of the mountain state land; or

(b) take an action that would impair or interfere with prison operations conducted on the point of the mountain state land.

Section 4. Section ~~{11-58-104}~~ **11-58-201** is enacted to read:

~~{11-58-104. Authority funds nonlapsing.~~

~~All funds received by the authority are nonlapsing.~~

~~Section 5. Section 11-58-201 is enacted to read:~~

~~‡Part 2. Point of the Mountain State Land Authority~~

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

(1) There is created the Point of the Mountain State Land Authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession, whose purpose is to facilitate the development of state land;

(b) a political subdivision of the state; and

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(c) a public corporation, as defined in Section 63E-1-102.

(3) Subject to Subsection 11-58-103(3), the authority shall manage the point of the mountain state land and shall plan, manage, and implement the development of the point of the mountain state land:

(a) beginning May 8, 2018;

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

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

Section ~~63E-1-5~~5. Section **11-58-202** is enacted to read:

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

The authority may:

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

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

(3) sue and be sued;

(4) enter into contracts generally;

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

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

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

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(8) provide for the development of the point of the mountain state land under one or more contracts;

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

(10) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(11) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(12) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(13) hire employees, including contract employees, [in addition to or in place of staff provided under Section 11-58-304](#);

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

(15) enter into a development agreement with a developer of some or all of the point of the mountain state land;

(16) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act;

(17) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(18) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more local government entities for the delivery of services to the point of the mountain state land; and

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

Section ~~7~~6. Section **11-58-203** is enacted to read:

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

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

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

(b) ensure strategic residential and commercial growth;

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

(i) jobs close to where people live;

(ii) vibrant urban centers;

(iii) housing types that match workforce needs;

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

(v) preserving and enhancing recreational opportunities;

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

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

(f) accommodate and incorporate the planning, funding, and development of an enhanced and expanded future transit and transportation infrastructure and other investments, including { world class transit, }

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

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

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

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

(i) relevant metropolitan planning organizations; and

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

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

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

Section ~~{8}~~7. Section **11-58-204** is enacted to read:

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

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

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

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

Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1,

Special Service District Act~~{3}~~, except to the extent that:

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

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

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

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

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

Section ~~{9}~~8. Section **11-58-301** is enacted to read:

### **Part 3. Authority Board**

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

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

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

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



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Section ~~{10}9~~. Section 11-58-302 is enacted to read:

### **11-58-302. Number of board members -- Appointment.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{11}~~10. Section **11-58-303** is enacted to read:

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

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

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

(3) A majority of board members constitutes a quorum, and, except as provided in Subsection 11-58-302(5), the action of a majority of a quorum constitutes the action of the board.

(4) (a) A board member who is not a legislator may not receive compensation or benefits for the member's service on the board, but may receive per diem and expense reimbursement for travel expenses incurred as a board member as allowed in:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislative Compensation.

Section ~~{12}~~11. Section **11-58-304** is enacted to read:

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

(1) As used in this section:

(a) "Division" means the Division of Facilities Construction and Management, created in Section 63A-5-201.

(b) "Office" means the Governor's Office of Economic Development, created in Section 63N-1-201.

(2) If and as requested by the board:

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~~(2)a~~ ~~The~~ the division shall:

~~(a)i~~ provide staff support to ~~the board, as requested by~~ the board; and

~~(b)ii~~ make available to the board existing division resources and expertise to assist the board in the development, marketing, and disposition of the point of the mountain state land; and

~~(3)b~~ ~~The~~ the office shall cooperate with and provide assistance to the board ~~, as determined and directed by the board,~~ in the board's:

~~(a)i~~ formulation of a development plan for the point of the mountain state land; and

~~(b)ii~~ management and implementation of a development plan, including the marketing of property and recruitment of businesses and others to locate on the point of the mountain state land.

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

Section ~~(13)~~ 12. Section **11-58-305** is enacted to read:

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

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

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

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

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

Section ~~(14)~~ 13. Section **11-58-306** is enacted to read:

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

(1) As used in this section:

(a) "Direct financial benefit":

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

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

and

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

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

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

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

(i) a legal or equitable interest;

(ii) an option on real property;

(iii) an interest under a contract;

(iv) fee simple ownership;

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

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

(vii) leasehold interest; and

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

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

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

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

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a firm, company, or other entity that the individual reasonably believes is likely to participate in or receive compensation or other direct financial benefit from the development of the point of the mountain state land.

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

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

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

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

Section ~~{15}~~14. Section 11-58-401 is enacted to read:

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

**11-58-401. Annual authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.**

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

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

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

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

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

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

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

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

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

(a) revenues and expenditures for the budget year;

(b) legal fees; and

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

Section ~~{16}~~15. Section **11-58-402** is enacted to read:

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

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

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

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

Section ~~{17}~~16. Section **11-58-403** is enacted to read:

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

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

Section ~~{18}~~17. Section **11-58-404** is enacted to read:

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

(1) The authority's chief financial officer:

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

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

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

(a) are public funds; and

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(b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act. Section ~~{19}~~18. Section 11-58-501 is enacted to read:

### Part 5. Authority Dissolution

**11-58-501. Dissolution of authority -- Restrictions -- Filing copy of ordinance -- Authority records -- Dissolution expenses.**

(1) The authority may not be dissolved unless:

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

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

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

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

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

(3) Upon the dissolution of the authority:

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

(i) in a newspaper of general circulation in the county in which the dissolved authority is located; and

(ii) as required in Section 45-1-101; and

(b) all title to property owned by the authority vests in the Division of Facilities Construction and Management, created in Section 63A-5-201, for the benefit of the state.

(4) The board shall deposit all books, documents, records, papers, and seal of the dissolved authority with the state auditor for safekeeping and reference.

(5) The authority shall pay all expenses of the deactivation and dissolution.

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**Legislative Review Note**

**Office of Legislative Research and General Counsel**