

POINT OF THE MOUNTAIN STATE LAND AUTHORITY

AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to the Point of the Mountain State Land Authority.

Highlighted Provisions:

This bill:

- ▶ authorizes the Point of the Mountain State Land Authority to impose an energy sales and use tax and an energy tax;
- ▶ modifies the membership of a loan committee;
- ▶ moves the ability to approve a loan from the loan committee to the Authority board;
- ▶ modifies a provision relating to Authority powers;
- ▶ requires a lessee of point of the mountain state land to pay an annual fee and provides for the levy and collection of the fee;
- ▶ requires the Authority to be paid a portion of increased property tax revenue from parcels of land transferred to a private owner;
- ▶ modifies limitations on individuals serving as board members;
- ▶ modifies the purposes of a closed meeting to include certain discussions relating to the development of land owned by the state;
- ▶ modifies provisions relating to an Authority infrastructure fund; and
- ▶ makes technical changes.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **10-1-304**, as last amended by Laws of Utah 2021, Chapter 414 and last amended by
35 Coordination Clause, Laws of Utah 2021, Chapter 367

36 **11-59-102**, as last amended by Laws of Utah 2021, Chapter 415

37 **11-59-104**, as enacted by Laws of Utah 2021, Chapter 415

38 **11-59-202**, as last amended by Laws of Utah 2020, Chapter 354

39 **11-59-306**, as enacted by Laws of Utah 2018, Chapter 388

40 **17D-4-102**, as last amended by Laws of Utah 2021, Chapter 415 and renumbered and
41 amended by Laws of Utah 2021, Chapter 314

42 **52-4-205**, as last amended by Laws of Utah 2021, Chapters 179 and 231

43 **63A-3-401.5**, as enacted by Laws of Utah 2021, Chapter 415

44 **63A-3-402**, as enacted by Laws of Utah 2021, Chapter 415

45 **63A-3-404**, as enacted by Laws of Utah 2021, Chapter 415

46 ENACTS:

47 **11-59-205**, Utah Code Annotated 1953

48 **11-59-206**, Utah Code Annotated 1953

49 **11-59-207**, Utah Code Annotated 1953

50 REPEALS:

51 **11-59-101**, as enacted by Laws of Utah 2018, Chapter 388



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

54 Section 1. Section **10-1-304** is amended to read:

55 **10-1-304. Municipality, military installation development authority, and Point of**
56 **the Mountain State Land Authority may levy tax -- Rate -- Imposition or repeal of tax --**
57 **Tax rate change -- Effective date -- Notice requirements -- Exemptions.**

58 (1) (a) Except as provided in Subsections (4) and (5), a municipality may levy a

59 municipal energy sales and use tax on the sale or use of taxable energy within the municipality:

60 (i) by ordinance as provided in Section 10-1-305; and

61 (ii) of up to 6% of the delivered value of the taxable energy.

62 (b) Subject to Section 63H-1-203, the military installation development authority
63 created in Section 63H-1-201 may levy a municipal energy sales and use tax under this part
64 within a project area described in a project area plan adopted by the authority under Title 63H,
65 Chapter 1, Military Installation Development Authority Act, as though the authority were a
66 municipality.

67 (2) A municipal energy sales and use tax imposed under this part may be in addition to
68 any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales and Use
69 Tax Act.

70 (3) (a) For purposes of this Subsection (3):

71 (i) "Annexation" means an annexation to a municipality under Chapter 2, Part 4,
72 Annexation.

73 (ii) "Annexing area" means an area that is annexed into a municipality.

74 (b) (i) If, on or after May 1, 2000, a city or town enacts or repeals a tax or changes the
75 rate of a tax under this part, the enactment, repeal, or change shall take effect:

76 (A) on the first day of a calendar quarter; and

77 (B) after a 90-day period beginning on the date the commission receives notice meeting
78 the requirements of Subsection (3)(b)(ii) from the municipality.

79 (ii) The notice described in Subsection (3)(b)(i)(B) shall state:

80 (A) that the city or town will enact or repeal a tax or change the rate of a tax under this
81 part;

82 (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

83 (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

84 (D) if the city or town enacts the tax or changes the rate of the tax described in
85 Subsection (3)(b)(ii)(A), the new rate of the tax.

86 (c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will
87 result in a change in the rate of a tax under this part for an annexing area, the change shall take
88 effect:

89 (A) on the first day of a calendar quarter; and

90 (B) after a 90-day period beginning on the date the commission receives notice meeting
91 the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

92 (ii) The notice described in Subsection (3)(c)(i)(B) shall state:

93 (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the
94 rate of a tax under this part for the annexing area;

95 (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

96 (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

97 (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

98 (4) (a) Subject to Subsection (4)(b), a sale or use of electricity within a municipality is
99 exempt from the tax authorized by this section if the sale or use is made under a tariff adopted
100 by the Public Service Commission of Utah only for purchase of electricity produced from a
101 new source of alternative energy, as defined in Section 59-12-102, as designated in the tariff by
102 the Public Service Commission of Utah.

103 (b) The exemption under Subsection (4)(a) applies to the portion of the tariff rate a
104 customer pays under the tariff described in Subsection (4)(a) that exceeds the tariff rate under
105 the tariff described in Subsection (4)(a) that the customer would have paid absent the tariff.

106 (5) (a) A municipality may not levy a municipal energy sales and use tax within:

107 (i) any portion of the municipality that is within a project area described in a project
108 area plan adopted by the military installation development authority under Title 63H, Chapter
109 1, Military Installation Development Authority Act[-:]; or

110 (ii) the point of the mountain state land, as defined in Section 11-59-102.

111 (b) Subsection (5)(a) does not apply to the military installation development authority's
112 levy of a municipal energy sales and use tax.

113 Section 2. Section 11-59-102 is amended to read:

114 **11-59-102. Definitions.**

115 As used in this chapter:

116 (1) "Authority" means the Point of the Mountain State Land Authority, created in
117 Section 11-59-201.

118 (2) "Board" means the authority's board, created in Section 11-59-301.

119 (3) "Development":

120 (a) means the construction, reconstruction, modification, expansion, or improvement of

121 a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or
122 other facility, including:

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

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

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

128 (b) includes all activities associated with:

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

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

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

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

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

140 (6) "Public entity" means:

141 (a) the state, including each department, division, or other agency of the state; or

142 (b) a county, city, town, metro township, school district, local district, special service
143 district, interlocal cooperation entity, community reinvestment agency, or other political
144 subdivision of the state, including the authority.

145 (7) "Publicly owned infrastructure and improvements":

146 (a) means infrastructure, improvements, facilities, or buildings that:

147 (i) benefit the public; and

148 (ii) (A) are owned by a public entity or a utility; or

149 (B) are publicly maintained or operated by a public entity; and

150 (b) includes:

151 (i) facilities, lines, or systems that provide:

152 (A) water, chilled water, or steam; or

153 (B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy,
154 microgrids, or telecommunications service;

155 (ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking
156 facilities, and public transportation facilities; and

157 (iii) greenspace, parks, trails, recreational amenities, or other similar facilities.

158 (8) "Taxing entity" means the same as that term is defined in Section 59-2-102.

159 Section 3. Section **11-59-104** is amended to read:

160 **11-59-104. Loan committee -- Approval of infrastructure loans.**

161 (1) As used in this section:

162 (a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

163 (b) "Infrastructure loan" means the same as that term is defined in Section
164 63A-3-401.5.

165 (c) "Infrastructure project" means the same as that term is defined in Section
166 63A-3-401.5.

167 (d) "Point of the mountain fund" means the same as that term is defined in Section
168 63A-3-401.5.

169 (e) "Loan [~~approval~~] committee" means a committee [~~consisting of:~~] established under
170 Subsection (2).

171 [~~(i) the board member;~~]

172 [~~(A) who is a member of the Senate appointed under Subsection 11-59-302(2)(a); and]~~

173 [~~(B) whose Senate district is closer to the boundary of the point of the mountain state~~
174 ~~land than is the Senate district of the other member of the Senate appointed under Subsection~~
175 ~~11-59-302(2)(a);]~~

176 [~~(ii) the board member;~~]

177 [~~(A) who is a member of the House of Representatives appointed under Subsection~~
178 ~~11-59-302(2)(b); and]~~

179 [~~(B) whose House district is closer to the boundary of the point of the mountain state~~
180 ~~land than is the House district of the other member of the House of Representatives appointed~~
181 ~~under Subsection 11-59-302(2)(b);]~~

182 [~~(iii) the board member who is appointed by the governor under Subsection~~

183 ~~11-59-302(2)(c)(i);~~

184 ~~[(iv) the board member who is appointed by the governor under Subsection~~

185 ~~11-59-302(2)(c)(ii); and]~~

186 ~~[(v) the board member who is the mayor of Draper or a member of the Draper city~~

187 ~~council.]~~

188 (2) The authority shall establish a five-member loan committee consisting of:

189 (a) an individual who is the board member appointed by the governor under Subsection

190 11-59-302(2)(c)(ii);

191 (b) the individual who is a board member under Subsection 11-59-302(2)(e) because
 192 the individual is the mayor of Draper or a member of the Draper city council;

193 (c) the executive director of the Department of Transportation, or the executive
 194 director's designee;

195 (d) an individual with expertise in public finance, appointed by the governor; and

196 (e) an individual with expertise in infrastructure development, appointed by the
 197 governor.

198 ~~[(2)]~~ (3) The loan [approval] committee may [approve] recommend for board approval
 199 an infrastructure loan from the point of the mountain fund to a borrower for an infrastructure
 200 project undertaken by the borrower.

201 ~~[(3)]~~ (4) [The loan approval committee shall establish] If the loan committee
 202 recommends an infrastructure loan, the loan committee shall recommend the terms of [an] the
 203 infrastructure loan in accordance with Section 63A-3-404.

204 ~~[(4)]~~ (5) The [loan approval committee] board may establish policies and guidelines
 205 with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

206 ~~[(5)]~~ (6) Within 60 days after the execution of an infrastructure loan, the [loan approval
 207 committee] board shall report the infrastructure loan, including the loan amount, terms, and
 208 security, to the Executive Appropriations Committee.

209 ~~[(6)]~~ (7) (a) Salaries and expenses of committee members who are legislators shall be
 210 paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3,
 211 Legislator Compensation.

212 (b) A committee member who is not a legislator may not receive compensation or
 213 benefits for the member's service on the committee, but may receive per diem and

214 reimbursement for travel expenses incurred as a committee member at the rates established by
215 the Division of Finance under:

- 216 (i) Sections [63A-3-106](#) and [63A-3-107](#); and
- 217 (ii) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
218 [63A-3-107](#).

219 Section 4. Section **11-59-202** is amended to read:

220 **11-59-202. Authority powers.**

221 The authority may:

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

225 (2) undertake, or engage a consultant to undertake, any study, effort, or activity the
226 board considers appropriate to assist or inform the board about any aspect of the proposed
227 development of the point of the mountain state land, including the best development model and
228 financial projections relevant to the authority's efforts to fulfill its duties and responsibilities
229 under this section and Section [11-59-203](#);

230 (3) sue and be sued;

231 (4) enter into contracts generally, including a contract for the sharing of records under
232 Section [63G-2-206](#);

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

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

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

242 (8) provide for the development of the point of the mountain state land under one or
243 more contracts, including the development of publicly owned infrastructure and improvements
244 and other infrastructure and improvements on or related to the point of the mountain state land;

- 245 (9) exercise powers and perform functions under a contract, as authorized in the
246 contract;
- 247 (10) accept financial or other assistance from any public or private source for the
248 authority's activities, powers, and duties, and expend any funds so received for any of the
249 purposes of this chapter;
- 250 (11) borrow money, contract with, or accept financial or other assistance from the
251 federal government, a public entity, or any other source for any of the purposes of this chapter
252 and comply with any conditions of the loan, contract, or assistance;
- 253 (12) issue bonds to finance the undertaking of any development objectives of the
254 authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and
255 Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;
- 256 (13) hire employees, including contract employees, in addition to or in place of staff
257 provided under Section [11-59-304](#);
- 258 (14) transact other business and exercise all other powers provided for in this chapter;
- 259 (15) enter into a development agreement with a developer of some or all of the point of
260 the mountain state land;
- 261 (16) provide for or finance an energy efficiency upgrade, a renewable energy system, or
262 electric vehicle charging infrastructure as defined in Section [11-42a-102](#), in accordance with
263 Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;
- 264 (17) exercise powers and perform functions that the authority is authorized by statute
265 to exercise or perform;
- 266 (18) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal
267 Cooperation Act, with one or more local government entities for the delivery of services to the
268 point of the mountain state land; ~~and~~
- 269 (19) enter into an agreement with the federal government or an agency of the federal
270 government, as the board considers necessary or advisable, to enable or assist the authority to
271 exercise its powers or fulfill its duties and responsibilities under this chapter~~[-];~~and
- 272 (20) provide funding for the development of publicly owned infrastructure and
273 improvements or other infrastructure and improvements on or related to the point of the
274 mountain state land.

275 Section 5. Section **11-59-205** is enacted to read:

276 11-59-205. Energy tax.

277 (1) By ordinance, an authority board may levy an energy tax on an energy supplier, as
278 defined in Section 10-1-303, that supplies energy to a facility on the point of the mountain state
279 land.

280 (2) The maximum rate of the energy tax under this section is 6% of the delivered value
281 as defined in Section 10-1-303, except that delivered value does not include the amount of a
282 tax paid under this section.

283 (3) (a) An energy supplier may recover an amount equal to the energy tax from its
284 customers, if the energy supplier includes the amount as a separate billing line item.

285 (b) The energy tax levied under this section is in addition to the rate approved by the
286 Public Service Commission and charged to the customer.

287 (4) (a) The energy tax under this section is payable by the energy supplier to the
288 authority on a monthly basis as described by the ordinance levying the tax.

289 (b) The ordinance shall allow the energy supplier to retain 1% of the tax remittance
290 each month to offset the energy supplier's costs of collecting and remitting the tax.

291 Section 6. Section 11-59-206 is enacted to read:

292 11-59-206. Annual fee in lieu of property tax.

293 (1) As used in this section:

294 (a) "Annual fee" means a fee:

295 (i) that is levied and collected each year, as provided in this section; and

296 (ii) in an amount that is the equivalent of the cumulative real property tax that would
297 be levied and collected on leased property by all taxing entities if the leased property were not
298 exempt property.

299 (b) "Exempt property" means real property that is exempt from ad valorem property tax
300 because the real property is owned by the state.

301 (c) "Lease agreement" means an agreement by which a private person leases from the
302 state real property that is part of the point of the mountain state land.

303 (d) (i) "Leased property" means real property that:

304 (A) is part of the point of the mountain state land;

305 (B) is leased by a private person; and

306 (C) would be subject to ad valorem property tax if the real property were owned by the

307 private person.

308 (ii) "Leased property" includes attachments and other improvements to the real
309 property that would be included in an assessment of the value of the real property if the real
310 property were not exempt property.

311 (e) "Leased property value" means the value that leased property would have if the
312 leased property were subject to ad valorem property tax.

313 (f) "Lessee" means a private person that leases property that is part of the point of the
314 mountain state land under a lease agreement.

315 (2) Beginning January 1 of the year immediately following the execution of a lease
316 agreement, a lessee under the lease agreement shall pay an annual fee with respect to the leased
317 property that is the subject of the lease agreement.

318 (3) The assessor of the county in which the point of the mountain state land is located:

319 (a) shall determine the leased property value of leased property that is subject to an
320 annual fee as though the leased property were subject to ad valorem property tax;

321 (b) shall collect an annual fee in the same way and at the same time that the assessor
322 would collect ad valorem property tax on the leased property if the leased property were subject
323 to ad valorem property tax;

324 (c) may retain an administrative fee for collecting and distributing the annual fee in the
325 same amount that would apply if the leased property were not exempt property; and

326 (d) shall distribute to the authority all revenue from an annual fee on leased property in
327 the same way and at the same time as the assessor distributes ad valorem property tax revenue
328 to taxing entities generally.

329 Section 7. Section **11-59-207** is enacted to read:

330 **11-59-207. Portion of property tax augmentation to be paid to authority.**

331 (1) As used in this section:

332 (a) "Base taxable value" means the taxable value in the year before the transfer date.

333 (b) "Property tax augmentation":

334 (i) means the amount of property tax that is the difference between:

335 (A) the amount of property tax revenues generated each tax year by all taxing entities
336 from a transferred parcel, using the current assessed value of the property; and

337 (B) the amount of property tax revenues that would be generated from that same

338 transferred parcel using the base taxable value of the property; and

339 (ii) does not include property tax revenue from:

340 (A) a county additional property tax or multicounty assessing and collecting levy
341 imposed in accordance with Section 59-2-1602;

342 (B) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330;
343 or

344 (C) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general
345 obligation bond.

346 (c) "Transfer date" means the date that fee title to land that is part of the point of the
347 mountain state land is transferred to a private person.

348 (d) "Transferred parcel" means a parcel of land:

349 (i) that is part of the point of the mountain state land; and

350 (ii) the fee title to which has been transferred to a private person.

351 (2) The authority shall be paid 75% of property tax augmentation from a transferred
352 parcel:

353 (a) for a period of 25 years beginning January 1 of the year immediately following the
354 transfer date for the transferred parcel; and

355 (b) for a period of an additional 15 years beyond the period stated in Subsection (2)(a)
356 if:

357 (i) the board determines by resolution that the additional years will produce a
358 significant benefit to the authority; and

359 (ii) the resolution is adopted before the end of the 25-year period under Subsection
360 (2)(a).

361 (3) A county that collects property tax on property within the county in which the point
362 of the mountain state land is located shall pay and distribute to the authority the amount of
363 property tax augmentation that the authority is entitled to collect under Subsection (2), in the
364 manner and at the time provided in Section 59-2-1365.

365 Section 8. Section **11-59-306** is amended to read:

366 **11-59-306. Limitations on board members.**

367 (1) As used in this section:

368 (a) "Direct financial benefit":

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

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

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

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

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

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

379 (i) a legal or equitable interest;

380 (ii) an option on real property;

381 (iii) an interest under a contract;

382 (iv) fee simple ownership;

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

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

388 (vii) leasehold interest; and

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

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

391 ~~[(a)]~~ (i) except as provided in Subsection (2)(b), the individual owns an interest in real
392 property, other than a personal residence in which the individual resides, within five miles of
393 the point of the mountain state land;

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

397 ~~[(c)]~~ (iii) the individual or a family member of the individual owns an interest in, is
398 directly affiliated with, or is an employee or officer of a firm, company, or other entity that the
399 individual reasonably believes is likely to participate in or receive compensation or other direct

400 financial benefit from the development of the point of the mountain state land[-]; or

401 (iv) the individual or a family member of the individual receives or is expected to
402 receive a direct financial benefit.

403 (b) An individual appointed as a board member under Subsection 11-59-302(2)(e) or
404 (f) who owns an interest in real property, other than a personal residence in which the
405 individual resides, is not disqualified from serving as a board member.

406 (3) (a) Before taking office as a board member, an individual shall submit to the
407 authority a statement:

408 (i) verifying that the individual's service as a board member does not violate
409 Subsection (2)[-]; and

410 (ii) for an individual appointed as a board member under Subsection 11-59-302(2)(e) or
411 (f), identifying any interest in real property, other than a personal residence in which the
412 individual resides, located within five miles of the point of the mountain state land.

413 (b) If an individual appointed as a board member under Subsection 11-59-302(2)(e) or
414 (f) takes action, during the individual's service as a board member, to initiate, negotiate, or
415 otherwise arrange for the acquisition of an interest in real property, other than a personal
416 residence in which the individual intends to live, located within five miles of the point of the
417 mountain state land, the individual shall submit a written statement to the board chair
418 describing the action, the interest in real property that the individual intends to acquire, and the
419 location of the real property.

420 (4) [A] Except for a board member appointed under Subsection 11-59-302(2)(e) or (f),
421 a board member may not, at any time during the board member's service on the board, take any
422 action to initiate, negotiate, or otherwise arrange for the acquisition of an interest in real
423 property, other than a personal residence in which the member intends to reside, located within
424 five miles of the point of the mountain state land.

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

429 (b) Before allowing a firm, company, or other entity to participate in planning,
430 managing, or implementing the development of the point of the mountain state land, the board

431 may require the firm, company, or other entity to certify that no board member or family
432 member of a board member owns an interest in, is directly affiliated with, or is an employee or
433 officer of the firm, company, or other entity.

434 Section 9. Section **17D-4-102** is amended to read:

435 **17D-4-102. Definitions.**

436 As used in this chapter:

437 (1) "Board" means the board of trustees of a public infrastructure district.

438 (2) "Creating entity" means the county, municipality, or development authority that
439 approves the creation of a public infrastructure district.

440 (3) "Development authority" means:

441 (a) the Utah Inland Port Authority created in Section [11-58-201](#); ~~[or]~~

442 (b) the Point of the Mountain State Land Authority created in Section [11-59-201](#); or

443 ~~[(b)]~~ (c) the military installation development authority created in Section [63H-1-201](#).

444 (4) "District applicant" means the person proposing the creation of a public
445 infrastructure district.

446 (5) "Division" means a division of a public infrastructure district:

447 (a) that is relatively equal in number of eligible voters or potential eligible voters to all
448 other divisions within the public infrastructure district, taking into account existing or potential
449 developments which, when completed, would increase or decrease the population within the
450 public infrastructure district; and

451 (b) which a member of the board represents.

452 (6) "Governing document" means the document governing a public infrastructure
453 district to which the creating entity agrees before the creation of the public infrastructure
454 district, as amended from time to time, and subject to the limitations of Title 17B, Chapter 1,
455 Provisions Applicable to All Local Districts, and this chapter.

456 (7) (a) "Limited tax bond" means a bond:

457 (i) that is directly payable from and secured by ad valorem property taxes that are
458 levied:

459 (A) by a public infrastructure district that issues the bond; and

460 (B) on taxable property within the district;

461 (ii) that is a general obligation of the public infrastructure district; and

462 (iii) for which the ad valorem property tax levy for repayment of the bond does not
463 exceed the property tax levy rate limit established under Section 17D-4-303 for any fiscal year,
464 except as provided in Subsection 17D-4-301(8).

465 (b) "Limited tax bond" does not include:

466 (i) a short-term bond;

467 (ii) a tax and revenue anticipation bond; or

468 (iii) a special assessment bond.

469 (8) "Public infrastructure and improvements" means:

470 (a) publicly owned infrastructure and improvements, as defined in Section 11-58-102,
471 for a public infrastructure district created by the Utah Inland Port Authority created in Section
472 11-58-201; and

473 (b) the same as that term is defined in Section 63H-1-102, for a public infrastructure
474 district created by the military installation development authority created in Section 63H-1-201.

475 Section 10. Section 52-4-205 is amended to read:

476 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**
477 **meetings.**

478 (1) A closed meeting described under Section 52-4-204 may only be held for:

479 (a) except as provided in Subsection (3), discussion of the character, professional
480 competence, or physical or mental health of an individual;

481 (b) strategy sessions to discuss collective bargaining;

482 (c) strategy sessions to discuss pending or reasonably imminent litigation;

483 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
484 including any form of a water right or water shares, or to discuss a proposed development
485 agreement, project proposal, or financing proposal related to the development of land owned by

486 the state, if public discussion [~~of the transaction~~] would:

487 (i) disclose the appraisal or estimated value of the property under consideration; or

488 (ii) prevent the public body from completing the transaction on the best possible terms;

489 (e) strategy sessions to discuss the sale of real property, including any form of a water
490 right or water shares, if:

491 (i) public discussion of the transaction would:

492 (A) disclose the appraisal or estimated value of the property under consideration; or

- 493 (B) prevent the public body from completing the transaction on the best possible terms;
494 (ii) the public body previously gave public notice that the property would be offered for
495 sale; and
496 (iii) the terms of the sale are publicly disclosed before the public body approves the
497 sale;
- 498 (f) discussion regarding deployment of security personnel, devices, or systems;
499 (g) investigative proceedings regarding allegations of criminal misconduct;
500 (h) as relates to the Independent Legislative Ethics Commission, conducting business
501 relating to the receipt or review of ethics complaints;
502 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
503 Subsection [52-4-204\(1\)\(a\)\(iii\)\(C\)](#);
- 504 (j) as relates to the Independent Executive Branch Ethics Commission created in
505 Section [63A-14-202](#), conducting business relating to an ethics complaint;
506 (k) as relates to a county legislative body, discussing commercial information as
507 defined in Section [59-1-404](#);
- 508 (l) as relates to the Utah Higher Education Assistance Authority and its appointed
509 board of directors, discussing fiduciary or commercial information as defined in Section
510 [53B-12-102](#);
- 511 (m) deliberations, not including any information gathering activities, of a public body
512 acting in the capacity of:
- 513 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,
514 during the process of evaluating responses to a solicitation, as defined in Section [63G-6a-103](#);
- 515 (ii) a protest officer, defined in Section [63G-6a-103](#), during the process of making a
516 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or
- 517 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement
518 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,
519 Procurement Appeals Board;
- 520 (n) the purpose of considering information that is designated as a trade secret, as
521 defined in Section [13-24-2](#), if the public body's consideration of the information is necessary in
522 order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;
- 523 (o) the purpose of discussing information provided to the public body during the

524 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of
525 the meeting:

526 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be
527 disclosed to a member of the public or to a participant in the procurement process; and

528 (ii) the public body needs to review or discuss the information in order to properly
529 fulfill its role and responsibilities in the procurement process;

530 (p) as relates to the governing board of a governmental nonprofit corporation, as that
531 term is defined in Section 11-13a-102, the purpose of discussing information that is designated
532 as a trade secret, as that term is defined in Section 13-24-2, if:

533 (i) public knowledge of the discussion would reasonably be expected to result in injury
534 to the owner of the trade secret; and

535 (ii) discussion of the information is necessary for the governing board to properly
536 discharge the board's duties and conduct the board's business; or

537 (q) a purpose for which a meeting is required to be closed under Subsection (2).

538 (2) The following meetings shall be closed:

539 (a) a meeting of the Health and Human Services Interim Committee to review a report
540 described in Subsection 62A-16-301(1)(a), and the responses to the report described in
541 Subsections 62A-16-301(2) and (4);

542 (b) a meeting of the Child Welfare Legislative Oversight Panel to:

543 (i) review a report described in Subsection 62A-16-301(1)(a), and the responses to the
544 report described in Subsections 62A-16-301(2) and (4); or

545 (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);

546 (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in
547 Section 26-7-13, to review and discuss an individual case, as described in Subsection
548 26-7-13(10);

549 (d) a meeting of a conservation district as defined in Section 17D-3-102 for the
550 purpose of advising the Natural Resource Conservation Service of the United States
551 Department of Agriculture on a farm improvement project if the discussed information is
552 protected information under federal law;

553 (e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for
554 the purpose of reviewing petitions for a medical cannabis card in accordance with Section

555 26-61a-105; and

556 (f) a meeting of the Colorado River Authority of Utah if:

557 (i) the purpose of the meeting is to discuss an interstate claim to the use of the water in
558 the Colorado River system; and

559 (ii) failing to close the meeting would:

560 (A) reveal the contents of a record classified as protected under Subsection

561 63G-2-305(82);

562 (B) reveal a legal strategy relating to the state's claim to the use of the water in the
563 Colorado River system;

564 (C) harm the ability of the Colorado River Authority of Utah or river commissioner to
565 negotiate the best terms and conditions regarding the use of water in the Colorado River
566 system; or

567 (D) give an advantage to another state or to the federal government in negotiations
568 regarding the use of water in the Colorado River system.

569 (3) In a closed meeting, a public body may not:

570 (a) interview a person applying to fill an elected position;

571 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,
572 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;
573 or

574 (c) discuss the character, professional competence, or physical or mental health of the
575 person whose name was submitted for consideration to fill a midterm vacancy or temporary
576 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and
577 Temporary Absence in Elected Office.

578 Section 11. Section 63A-3-401.5 is amended to read:

579 **63A-3-401.5. Definitions.**

580 As used in this part:

581 (1) "Borrower" means a person who borrows money from an infrastructure fund for an
582 infrastructure project.

583 (2) "Independent political subdivision" means:

584 (a) the Utah Inland Port Authority created in Section 11-58-201;

585 (b) the Point of the Mountain State Land Authority created in Section 11-59-201; or

586 (c) the Military Installation Development Authority created in Section 63H-1-201.

587 (3) "Infrastructure fund" means a fund created in Subsection 63A-3-402(1).

588 (4) "Infrastructure loan" means a loan of infrastructure fund money to finance an
589 infrastructure project.

590 (5) "Infrastructure project" means a project to acquire, construct, reconstruct,
591 rehabilitate, equip, or improve public infrastructure and improvements:

592 (a) within a project area; or

593 (b) outside a project area, if the respective loan approval [~~committee~~] body determines
594 by resolution that the public infrastructure and improvements are of benefit to the project area.

595 (6) "Inland port" means the same as that term is defined in Section 11-58-102.

596 (7) "Inland port fund" means the infrastructure fund created in Subsection
597 63A-3-402(1)(a).

598 (8) "Military development fund" means the infrastructure fund created in Subsection
599 63A-3-402(1)(c).

600 (9) "Point of the mountain fund" means the infrastructure fund created in Subsection
601 63A-3-402(1)(b).

602 (10) "Project area" means:

603 (a) the same as that term is defined in Section 11-58-102, for purposes of an
604 infrastructure loan from the inland port fund;

605 (b) the point of the mountain state land, as defined in Section 11-59-102, for purposes
606 of an infrastructure loan from the point of the mountain fund; and

607 (c) the same as that term is defined in Section 63H-1-102, for purposes of an
608 infrastructure loan from the military development fund.

609 (11) "Property tax revenue" means:

610 (a) property tax differential, as defined in Section 11-58-102, for purposes of an
611 infrastructure loan from the inland port fund; or

612 (b) property tax allocation, as defined in Section 63H-1-102, for purposes of an
613 infrastructure loan from the military development fund.

614 (12) "Public infrastructure and improvements":

615 (a) for purposes of an infrastructure loan from the inland port fund:

616 (i) means publicly owned infrastructure and improvements, as defined in Section

617 [11-58-102](#); and

618 (ii) includes an inland port facility; [~~and~~]

619 (b) means publicly owned infrastructure and improvements, as defined in Section
620 [11-59-102](#), for purposes of an infrastructure loan from the point of the mountain fund; and

621 [~~(b)~~] (c) means the same as that term is defined in Section [63H-1-102](#), for purposes of
622 an infrastructure loan from the military development fund.

623 (13) "Respective loan approval [~~committee~~] body" means:

624 (a) the committee created in Section [11-58-106](#), for purposes of an infrastructure loan
625 from the inland port fund;

626 (b) the [~~committee~~] board created in Section [~~11-59-104~~] [11-59-301](#), for purposes of an
627 infrastructure loan from the point of the mountain fund; and

628 (c) the committee created in Section [63H-1-104](#), for purposes of an infrastructure loan
629 from the military development fund.

630 Section 12. Section **63A-3-402** is amended to read:

631 **63A-3-402. Infrastructure funds established -- Purpose of funds -- Use of money**
632 **in funds.**

633 (1) There are created, as enterprise revolving loan funds:

634 (a) the inland port infrastructure revolving loan fund;

635 (b) the point of the mountain infrastructure revolving loan fund; and

636 (c) the military development infrastructure revolving loan fund.

637 (2) The purpose of each infrastructure fund is to provide funding, through
638 infrastructure loans, for infrastructure projects undertaken by a borrower.

639 (3) (a) Money in an infrastructure fund may be used only to provide loans for
640 infrastructure projects.

641 (b) The division may not loan money in an infrastructure fund without the approval of
642 the respective loan approval [~~committee~~] body.

643 Section 13. Section **63A-3-404** is amended to read:

644 **63A-3-404. Loan agreement.**

645 (1) (a) A borrower that borrows money from an infrastructure fund shall enter into a
646 loan agreement with the division for repayment of the money.

647 (b) (i) A loan agreement under Subsection (1)(a) shall be secured by:

648 (A) bonds, notes, or another evidence of indebtedness validly issued under state law; or
649 (B) revenue generated from an infrastructure project.

650 (ii) The security provided under Subsection (1)(b)(i) may include the borrower's pledge
651 of some or all of a revenue source that the borrower controls.

652 (c) The respective loan approval [~~committee~~] body may determine that property tax
653 revenue or revenue from the infrastructure project for which the infrastructure loan is obtained
654 is sufficient security for an infrastructure loan.

655 (2) An infrastructure loan shall bear interest at a rate not to exceed .5% above bond
656 market interest rates available to the state.

657 (3) (a) Subject to Subsection (3)(b), the respective loan approval [~~committee~~] body
658 shall determine the length of term of an infrastructure loan.

659 (b) If the security for an infrastructure loan is property tax revenue, the repayment
660 terms of the infrastructure loan agreement shall allow sufficient time for the property tax
661 revenue to generate sufficient money to cover payments under the infrastructure loan.

662 (4) An infrastructure loan agreement may provide for a portion of the loan proceeds to
663 be applied to a reserve fund to secure repayment of the infrastructure loan.

664 (5) (a) If a borrower fails to comply with the terms of an infrastructure loan agreement,
665 the division may:

666 (i) seek any legal or equitable remedy to obtain:

667 (A) compliance with the agreement; or

668 (B) the payment of damages; and

669 (ii) request a state agency with money due to the borrower to withhold payment of the
670 money to the borrower and instead to pay the money to the division to pay any amount due
671 under the infrastructure loan agreement.

672 (b) A state agency that receives a request from the division under Subsection (5)(a)(ii)
673 shall pay to the division the money due to the borrower to the extent of the amount due under
674 the infrastructure loan agreement.

675 (6) Upon approval from the respective loan approval [~~committee~~] body, the division
676 shall loan money from an infrastructure fund according to the terms established by the
677 respective loan approval [~~committee~~] body.

678 (7) (a) The division shall administer and enforce an infrastructure loan according to the

679 terms of the infrastructure loan agreement.

680 (b) (i) Beginning May 5, 2021, the division shall assume responsibility from the State
681 Infrastructure Bank Fund for servicing the loan under Subsection [63B-27-101\(3\)\(a\)](#).

682 (ii) Payments due after May 5, 2021 under the loan under Subsection [63B-27-101\(3\)\(a\)](#)
683 shall be made to the division rather than to the State Infrastructure Bank Fund, to be deposited
684 into the military development fund.

685 Section 14. **Repealer.**

686 This bill repeals:

687 Section [11-59-101](#), **Title.**