

## HB0438S02 compared with HB0438S01

~~text~~ shows text that was in HB0438S01 but was deleted in HB0438S02.

text shows text that was not in HB0438S01 but was inserted into HB0438S02.

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Representative V. Lowry Snow proposes the following substitute bill:

### POINT OF THE MOUNTAIN STATE LAND AUTHORITY

#### AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: V. Lowry Snow**

Senate Sponsor: \_\_\_\_\_

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#### 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 and to collect impact fees and other development fees;
- ▶ modifies the membership of a loan committee;
- ▶ moves the ability to approve a loan from the loan committee to the Authority board

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and requires Executive Appropriations Committee approval for a loan from the point of the mountain loan fund;

- ▶ 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.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ This bill provides a special effective date. }~~ None

### Utah Code Sections Affected:

AMENDS:

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

**11-36a-102**, as last amended by Laws of Utah 2021, Chapter 35

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

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

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

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

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

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

**59-2-924**, as last amended by Laws of Utah 2021, Chapters 214 and 388

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

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

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

ENACTS:

11-59-205, Utah Code Annotated 1953

11-59-206, Utah Code Annotated 1953

11-59-207, Utah Code Annotated 1953

11-59-208, Utah Code Annotated 1953

REPEALS:

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

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

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

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

(1) (a) Except as provided in Subsections (4) and (5), a municipality may levy a municipal energy sales and use tax on the sale or use of taxable energy within the municipality:

- (i) by ordinance as provided in Section 10-1-305; and
- (ii) of up to 6% of the delivered value of the taxable energy.

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

(c) ~~The~~ (i) Beginning July 1, 2022, the Point of the Mountain State Land Authority, created in Section 11-59-201, may by resolution levy a municipal energy sales and use tax under this part within the area that constitutes the point of the mountain state land, as defined in Section 11-59-102, as though the Point of the Mountain State Land Authority were a municipality.

(ii) The Point of the Mountain State Land Authority's adoption of a resolution under Subsection (1)(c)(i) that otherwise complies with the requirements under this part applicable to an ordinance is considered the equivalent of adopting an ordinance under this part.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) on or after July 1, 2022, within the point of the mountain state land, as defined in Section 11-59-102.

(b) Subsection (5)(a) does not apply to:

(i) the military installation development authority's levy of a municipal energy sales and use tax[-]; or

(ii) the Point of the Mountain State Land Authority's levy of a municipal energy sales and use tax.

Section 2. Section 11-36a-102 is amended to read:

### **11-36a-102. Definitions.**

As used in this chapter:

(1) (a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or

(ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

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(b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.

(2) "Charter school" includes:

(a) an operating charter school;

(b) an applicant for a charter school whose application has been approved by a charter school authorizer as provided in Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; and

(c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(3) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.

(4) "Development approval" means:

(a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;

(b) development activity, for a public entity that may develop without written authorization from a local political subdivision;

(c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:

(i) to reserve or provide:

(A) a water right;

(B) a system capacity; or

(C) a distribution facility; or

(ii) to deliver for a development activity:

(A) culinary water; or

(B) irrigation water; or

(d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:

(i) to reserve or provide:

(A) sewer collection capacity; or

(B) treatment capacity; or

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(ii) to provide sewer service for a development activity.

(5) "Enactment" means:

(a) a municipal ordinance, for a municipality;

(b) a county ordinance, for a county; and

(c) a governing board resolution, for a local district, special service district, or private entity.

(6) "Encumber" means:

(a) a pledge to retire a debt; or

(b) an allocation to a current purchase order or contract.

(7) "Expense for overhead" means a cost that a local political subdivision or private entity:

(a) incurs in connection with:

(i) developing an impact fee facilities plan;

(ii) developing an impact fee analysis; or

(iii) imposing an impact fee, including any related overhead expenses; and

(b) calculates in accordance with a methodology that is consistent with generally accepted cost accounting practices.

(8) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, local district, special service district, or private entity.

(9) (a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.

(b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.

(10) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.

(11) "Impact fee facilities plan" means the plan required by Section 11-36a-301.

(12) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.

(13) (a) "Local political subdivision" means a county, a municipality, a local district

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under Title 17B, Limited Purpose Local Government Entities - Local Districts, ~~[or]~~ a special service district under Title 17D, Chapter 1, Special Service District Act, or the Point of the Mountain State Land Authority, created in Section 11-59-201.

(b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 11-36a-206.

(14) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:

(a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or

(b) functional condition of development approval because the private entity:

(i) has no reasonably equivalent competition in the immediate market; and

(ii) is the only realistic source of water for the applicant's development.

(15) (a) "Project improvements" means site improvements and facilities that are:

(i) planned and designed to provide service for development resulting from a development activity;

(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and

(iii) not identified or reimbursed as a system improvement.

(b) "Project improvements" does not mean system improvements.

(16) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

(17) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:

(a) water rights and water supply, treatment, storage, and distribution facilities;

(b) wastewater collection and treatment facilities;

(c) storm water, drainage, and flood control facilities;

(d) municipal power facilities;



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- (e) roadway facilities;
- (f) parks, recreation facilities, open space, and trails;
- (g) public safety facilities;
- (h) environmental mitigation as provided in Section 11-36a-205; or
- (i) municipal natural gas facilities.

(18) (a) "Public safety facility" means:

- (i) a building constructed or leased to house police, fire, or other public safety entities;

or

- (ii) a fire suppression vehicle costing in excess of \$500,000.

(b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

(19) (a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.

(b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:

- (i) are necessitated by the new development; and
  - (ii) are not funded by the state or federal government.
- (c) "Roadway facilities" does not mean federal or state roadways.

(20) (a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.

(b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.

(21) "Specified public agency" means:

- (a) the state;
- (b) a school district; or
- (c) a charter school.

(22) (a) "System improvements" means:

- (i) existing public facilities that are:
  - (A) identified in the impact fee analysis under Section 11-36a-304; and

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(B) designed to provide services to service areas within the community at large; and

(ii) future public facilities identified in the impact fee analysis under Section

11-36a-304 that are intended to provide services to service areas within the community at large.

(b) "System improvements" does not mean project improvements.

Section ~~2}3~~. Section **11-59-102** is amended to read:

### **11-59-102. Definitions.**

As used in this chapter:

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

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

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

(b) includes all activities associated with:

(i) marketing and business recruiting activities and efforts;

(ii) leasing, or selling or otherwise disposing of, all or any part of the point of the mountain state land; 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" 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 state-owned land in the vicinity of the current state correctional facility.

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(6) "Public entity" means:

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

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

(7) "Publicly owned infrastructure and improvements":

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

(i) benefit the public; and

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

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

(b) includes:

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

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

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

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

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

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

Section ~~3}4~~4. Section **11-59-104** is amended to read:

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

(1) As used in this section:

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

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

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

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

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

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~~[(i) the board member:]~~

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

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

~~[(ii) the board member:]~~

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

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

~~[(iii) the board member who is appointed by the governor under Subsection 11-59-302(2)(c)(i);]~~

~~[(iv) the board member who is appointed by the governor under Subsection 11-59-302(2)(c)(ii); and]~~

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

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

(a) ~~an~~ the individual who is the board member appointed by the governor under Subsection 11-59-302(2)(c)(ii);

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

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

(d) an individual ~~with~~, appointed by the governor, who:

(i) is not an elected official; and

(ii) has expertise in public finance ~~, appointed by the governor~~ or infrastructure development; and

(e) an individual ~~with expertise in~~, appointed jointly by the president of the Senate and speaker of the House of Representatives, who:

(i) is not an elected official; and

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(ii) has expertise in public finance or infrastructure development, ~~appointed by the governor~~.

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

(b) An infrastructure loan from the point of the mountain fund may not be made unless:

(i) the infrastructure loan is recommended by the loan committee; and

(ii) the board approves the infrastructure loan.

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

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

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

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

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

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

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

Section ~~(4)~~ 5. Section **11-59-202** is amended to read:

**11-59-202. 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

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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 11-59-203;

(3) sue and be sued;

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

(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;

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

(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

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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 11-59-304;

(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 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy 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~~[-]; ~~and~~~~

(20) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the point of the mountain state land~~f~~.

~~Section 5~~; and

(21) impose impact fees under Title 11, Chapter 36a, Impact Fees Act, and other fees related to development activities.

Section 6. Section **11-59-205** is enacted to read:

**11-59-205. Authority funds.**

(1) Authority funds consist of all money that the authority receives from any source, including:

(a) money appropriated by the Legislature;

(b) money from lease revenue;

(c) revenue from fees or other charges imposed by the authority; and

(d) other money paid to or acquired by the authority, as provided in this chapter or

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other applicable law.

(2) The authority may use authority funds to carry out any of the powers of the authority under this chapter or for any purpose authorized under this chapter, including:

(a) providing long-term benefits to the state from the development or use of point of the mountain state land;

(b) investment in authority projects;

(c) repayment of point of the mountain infrastructure loans;

(d) repayment of or collateral for authority bonds;

(e) the sharing of money with other governmental entities under an interlocal agreement; and

(f) paying any consulting fees, staff salaries, and other administrative, overhead, legal, and operating expenses of the authority.

(3) The authority may not spend or use any money the authority receives under Section 10-1-304, 11-59-206, 11-59-207, or 11-59-208 until after June 30, 2023.

Section 7. Section 11-59-206 is enacted to read:

**11-59-206. Energy sales and use tax.**

(1) ~~By ordinance~~ As provided in Subsection 10-1-304(1)(c), ~~an~~ the authority ~~board~~ may by resolution levy an energy sales and use tax, under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, on an energy supplier, as defined in Section 10-1-303, that supplies energy to a facility on the point of the mountain state land.

(2) ~~The maximum rate of the~~ An energy sales and use tax under this section is ~~6%~~ ~~of~~ ~~subject to~~ the ~~delivered value as defined in Section 10-1-303~~ ~~maximum rate under~~ Subsection 10-3-304(1)(a)(ii), except that delivered value does not include the amount of a tax paid under this section.

(3) (a) An energy supplier may recover from the energy supplier's customers an amount equal to the energy sales and use tax ~~from its customers~~, if the energy supplier includes the amount as a separate billing line item.

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

~~(4) If the authority levies an energy use and sales tax under Section 10-1-304, the energy tax under this section paid by a customer is reduced by any energy sales and use tax~~



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paid by that customer on the same delivered value.

~~{5}4~~ (a) ~~{The}~~ An energy sales and use tax under this section is payable by the energy supplier to the authority on a monthly basis as described by the ordinance levying the tax.

(b) ~~{The ordinance}~~ A resolution levying an energy sales and use tax shall allow the energy supplier to retain 1% of the tax remittance each month to offset the energy supplier's costs of collecting and remitting the tax.

(5) Beginning July 1, 2022, a municipality may not levy an energy sales and use tax on an energy supplier for energy that the energy supplier supplies to a facility located on the point of the mountain state land.

Section ~~{6}8~~. Section ~~{11-59-206}~~ 11-59-207 is enacted to read:

~~{11-59-206}~~ 11-59-207. **Annual fee in lieu of property tax.**

(1) As used in this section:

(a) "Annual fee" means a fee:

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

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

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

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

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

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

(B) is leased by a private person; and

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

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

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

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

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

(3) In a county in which the point of the mountain state land is located:

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

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

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

(d) the county treasurer shall distribute to the authority all revenue from an annual fee on leased property in the same way and at the same time as the treasurer distributes ad valorem property tax revenue to taxing entities in accordance with Section 59-2-1365.

(4) Leased property is not subject to a privilege tax under Title 59, Chapter 4, Privilege Tax.

Section ~~{7}9~~. Section ~~{11-59-207}~~11-59-208 is enacted to read:

~~{11-59-207}~~11-59-208. **Portion of property tax augmentation to be paid to authority.**

(1) As used in this section:

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

(b) "Property tax augmentation":

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

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

(B) the amount of property tax revenues that would be generated from that same transferred parcel using the base taxable value of the property; and

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(ii) does not include property tax revenue from:

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

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

or

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

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

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

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

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

(2) ~~{The}~~ Beginning with the first tax year that begins on or after January 1, 2023, the authority shall be paid 75% of property tax augmentation from a transferred parcel:

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

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

if:

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

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

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

Section ~~{8}~~10. Section 11-59-306 is amended to read:

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

(1) As used in this section:

(a) "Designated individual" means an individual:

(i) (A) who is a member of the Senate or House of Representatives;

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(B) who has been appointed as a member of the board under Subsection 11-59-302(2)(a) or (b); and

(C) whose legislative district includes some or all of the point of the mountain state land; or

(ii) who is designated to serve as a board member under Subsection 11-59-302(2)(e) or (f).

~~[(a)]~~ (b) "Direct financial benefit":

(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)]~~ (c) "Family member" means a parent, spouse, sibling, child, or grandchild.

~~[(c)]~~ (d) "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) ~~[(a)]~~ An individual may not serve as a member of the board if:

~~[(a)]~~ (a) ~~[(i) except as provided in]~~ subject to Subsection ~~(2)5~~ (b) for a designated individual. the individual owns an interest in real property, other than a personal

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residence in which the individual resides, on or within five miles of the point of the mountain state land;

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

~~{(c)}{ (iii)}~~ 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[-]; or

~~{(iv)}{d}~~ the individual or a family member of the individual receives or is expected to receive a direct financial benefit.

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

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

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

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

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

(4) [A] Except for a board member ~~{appointed under Subsection 11-59-302(2)(e) or (f)}~~ who is a **designated individual**, a board member ~~[may not,] is disqualified from further~~

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service as a board member if the board member, at any time during the board member's service on the board, ~~take~~ takes any action to initiate, negotiate, or otherwise arrange for the acquisition of an interest in real property, other than a personal residence in which the member intends to reside, located on or within five miles of the point of the mountain state land.

(5) A designated individual who submits a written statement under Subsection (3)(a)(ii) or (b) may not serve or continue to serve as a board member unless at least two-thirds of all other board members conclude that the designated individual's service as a board member does not and will not create a material conflict of interest impairing the ability of the designated individual to exercise fair and impartial judgment as a board member and to act in the best interests of the authority.

~~(5)~~ (6) (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 ~~(9)~~ 11. Section **17D-4-102** is amended to read:

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

As used in this chapter:

- (1) "Board" means the board of trustees of a public infrastructure district.
- (2) "Creating entity" means the county, municipality, or development authority that approves the creation of a public infrastructure district.
- (3) "Development authority" means:
  - (a) the Utah Inland Port Authority created in Section 11-58-201; ~~or~~
  - (b) the Point of the Mountain State Land Authority created in Section 11-59-201; or
  - ~~(b)~~ (c) the military installation development authority created in Section 63H-1-201.
- (4) "District applicant" means the person proposing the creation of a public infrastructure district.

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

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

(b) which a member of the board represents.

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

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

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

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

(B) on taxable property within the district;

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

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

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

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(8) "Public infrastructure and improvements" means:

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

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

Section ~~†10~~12. Section **52-4-205** is amended to read:

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

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### meetings.

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

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

(b) strategy sessions to discuss collective bargaining;

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

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if public discussion [~~of the transaction~~] would:

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

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

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

(i) public discussion of the transaction would:

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

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

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;



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(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

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

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

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

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

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

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

(2) The following meetings shall be closed:

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

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

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

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

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

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

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

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

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

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

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

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

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

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

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

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

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

Section ~~{11}~~13. Section **59-2-924** is amended to read:

**59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.**

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor

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assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, the same as that term is defined in Section 11-59-207;

~~[(ii)]~~ (iii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

~~[(iii)]~~ (iv) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102; or

~~[(iv)]~~ (v) for a host local government, the same as that term is defined in Section 63N-2-502.

(e) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity; or

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property.

(f) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

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(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(j) "Host local government" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(m) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount calculated by multiplying:

(A) the difference between the current assessed value of the property and the base taxable value; and

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(B) the number that represents the percentage of the property tax augmentation, as defined in Section 11-59-207, that is paid to the Point of the Mountain State Land Authority;

~~[(ii)]~~ (iii) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

~~[(iii)]~~ (iv) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority; or

~~[(iv)]~~ (v) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government.

(o) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a

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primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

(q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount equal to the incremental value that is no longer provided to the Point of the Mountain State Land Authority as property tax augmentation, as defined in Section 11-59-207;

~~(iii)~~ (iii) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment; or

~~(iii)~~ (iv) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(t) "Property tax differential" means the same as that term is defined in Section 11-58-102.

(u) "Qualifying exempt revenue" means revenue received:

(i) for the previous calendar year;

(ii) by a taxing entity;

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(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and

(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds \$15,300.

(v) "Tax increment" means the same as that term is defined in Section 17C-1-102.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year minus the qualifying exempt revenue by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;



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(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

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(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with

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Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section ~~{12}~~14. Section **63A-3-401.5** is amended to read:

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

As used in this part:

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

(2) "Independent political subdivision" means:

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

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

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

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

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

(5) "Infrastructure project" means a project to acquire, construct, reconstruct,

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rehabilitate, equip, or improve public infrastructure and improvements:

(a) within a project area; or

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

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

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

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

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

(10) "Project area" means:

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

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

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

(11) "Property tax revenue" means:

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

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

(12) "Public infrastructure and improvements":

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

(i) means publicly owned infrastructure and improvements, as defined in Section 11-58-102; and

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

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

~~(b)~~ (c) means the same as that term is defined in Section 63H-1-102, for purposes of

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an infrastructure loan from the military development fund.

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

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

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

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

Section ~~{13}~~15. Section **63A-3-402** is amended to read:

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

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

(a) the inland port infrastructure revolving loan fund;

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

(c) the military development infrastructure revolving loan fund.

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

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

(b) The division may not loan money in an infrastructure fund without the approval of:

(i) the respective loan approval [~~committee~~] body.

— Section 14};] body; and

(ii) the Executive Appropriations Committee of the Legislature, for a loan from the point of the mountain fund.

Section 16. Section **63A-3-404** is amended to read:

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

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

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

(A) bonds, notes, or another evidence of indebtedness validly issued under state law; or

(B) revenue generated from an infrastructure project.

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

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

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

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

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

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

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

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

(A) compliance with the agreement; or

(B) the payment of damages; and

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

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

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

(7) (a) The division shall administer and enforce an infrastructure loan according to the terms of the infrastructure loan agreement.

(b) (i) Beginning May 5, 2021, the division shall assume responsibility from the State

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Infrastructure Bank Fund for servicing the loan under Subsection 63B-27-101(3)(a).

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

Section ~~{15}~~17. **Repealer.**

This bill repeals:

Section **11-59-101, Title.**

~~{~~ ~~Section 16. **Effective date.**~~

~~\_\_\_\_\_ (1) Except as provided in Subsection (2), this bill takes effect May 4, 2022.~~

~~\_\_\_\_\_ (2) The amendments to Sections 10-1-304, 11-59-205, 11-59-206, 11-59-207, and 59-2-924 take effect July 1, 2022.~~

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