

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

2 **AMENDMENTS**

3 2023 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jerry W. Stevenson**

6 House Sponsor: Jeffrey D. Stenquist

7

8 **LONG TITLE**

9 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

14 ▶ provides that the Point of the Mountain State Land Authority has control over the
15 management, development, and disposition of point of the mountain state land;

16 ▶ provides for the role of the Division of Facilities Construction and Management
17 with respect to construction on point of the mountain state land;

18 ▶ specifies that local governments do not have zoning authority with respect to the
19 point of the mountain state land;

20 ▶ eliminates a limitation on the Authority's ability to spend Authority money;

21 ▶ authorizes the Authority to impose an accommodations tax and specifies that the
22 revenue from the tax is to be used for affordable housing;

23 ▶ modifies the composition of the Authority board;

24 ▶ authorizes the Authority board to hold a closed meeting for a specified purpose; and

25 ▶ makes technical and conforming changes.

26 **Money Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **11-59-102**, as last amended by Laws of Utah 2022, Chapter 237

33 **11-59-103**, as enacted by Laws of Utah 2018, Chapter 388

34 **11-59-205**, as enacted by Laws of Utah 2022, Chapter 237

35 **11-59-302**, as last amended by Laws of Utah 2021, Chapter 282

36 **11-59-304**, as last amended by Laws of Utah 2021, Chapter 282

37 **11-59-501**, as last amended by Laws of Utah 2021, Chapter 282

38 **52-4-205**, as last amended by Laws of Utah 2022, Chapters 237, 237, 290, 290, 332,

39 332, 335, 422, 422, 478, and 478

40 ENACTS:

41 **11-59-209**, Utah Code Annotated 1953



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

44 Section 1. Section **11-59-102** is amended to read:

45 **11-59-102. Definitions.**

46 As used in this chapter:

47 (1) "Authority" means the Point of the Mountain State Land Authority, created in

48 Section **11-59-201**.

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

50 (3) "Development":

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

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

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

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

59 (b) includes all activities associated with:

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

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

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

65 (4) "Facilities division" means the Division of Facilities Construction and
66 Management, created in Section 63A-5b-301.

67 [~~4~~] (5) "New correctional facility" means the state correctional facility being
68 developed in Salt Lake City to replace the state correctional facility in Draper.

69 [~~5~~] (6) "Point of the mountain state land" means the approximately 700 acres of
70 state-owned land in Draper, including land used for the operation of a state correctional facility
71 until completion of the new correctional facility and state-owned land in the vicinity of the
72 current state correctional facility.

73 [~~6~~] (7) "Public entity" means:

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

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

78 [~~7~~] (8) "Publicly owned infrastructure and improvements":

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

80 (i) benefit the public; and

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

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

83 (b) includes:

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

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

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

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

90 (iii) greenspace, parks, trails, recreational amenities, or other similar facilities.
 91 ~~[(8)]~~ (9) "Taxing entity" means the same as that term is defined in Section [59-2-102](#).
 92 Section 2. Section **11-59-103** is amended to read:

93 **11-59-103. Scope of chapter -- Limit on selling or leasing point of the mountain**
 94 **state land -- Authority control over point of the mountain state land -- Role of Division of**
 95 **Facilities and Construction Management -- Local governing zoning not applicable.**

96 (1) This chapter governs the management of the point of the mountain state land, and
 97 the process of planning, managing, and implementing the development of the point of the
 98 mountain state land[~~;~~].

99 ~~[(a) beginning May 8, 2018;]~~
 100 ~~[(b) subject to Subsection (3), during the transition period as prison operations on the~~
 101 ~~point of the mountain state land continue and eventually wind down in anticipation of the~~
 102 ~~relocation of prison operations to the new correctional facility; and]~~
 103 ~~[(c) upon and after the transfer of prison operations to the new correctional facility.]~~

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

106 (b) Notwithstanding Section [63A-5b-303](#), the authority has complete and exclusive
 107 control over the management, development, and disposition of the point of the mountain state
 108 land.

109 ~~[(3) Nothing in this chapter may be construed to authorize the authority to:]~~
 110 ~~[(a) manage, oversee, or otherwise affect prison operations conducted on the point of~~
 111 ~~the mountain state land; or]~~
 112 ~~[(b) take an action that would impair or interfere with prison operations conducted on~~
 113 ~~the point of the mountain state land.]~~

114 (3) (a) The facilities division serves the role of compliance agency under Title 15A,
 115 State Construction and Fire Codes Act, with respect to the point of the mountain state land.

116 (b) The facilities division is the permitting agency responsible for the issuance of a
 117 building permit or certificate of occupancy related to construction on the point of the mountain
 118 state land, in accordance with applicable building codes and standards.

119 (4) The zoning authority of a local government under Title 10, Chapter 9a, Municipal
 120 Land Use, Development, and Management Act, or Title 17, Chapter 27a, County Land Use,

121 Development, and Management Act, does not apply to the use of the point of the mountain
122 state land or to any improvements constructed on the point of the mountain state land,
123 including improvements constructed by an entity other than the authority.

124 Section 3. Section **11-59-205** is amended to read:

125 **11-59-205. Authority funds.**

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

- 128 (a) money appropriated by the Legislature;
- 129 (b) money from lease revenue;
- 130 (c) revenue from fees or other charges imposed by the authority; and
- 131 (d) other money paid to or acquired by the authority, as provided in this chapter or
132 other applicable law.

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

- 135 (a) providing long-term benefits to the state from the development or use of point of
136 the mountain state land;
- 137 (b) investment in authority projects;
- 138 (c) repayment of point of the mountain infrastructure loans;
- 139 (d) repayment of or collateral for authority bonds;
- 140 (e) the sharing of money with other governmental entities under an interlocal
141 agreement; and
- 142 (f) paying any consulting fees, staff salaries, and other administrative, overhead, legal,
143 and operating expenses of the authority.

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

146 Section 4. Section **11-59-209** is enacted to read:

147 **11-59-209. Accommodations tax -- Revenue to be used for affordable housing.**

148 (1) The authority may, by a resolution adopted by the board, impose a tax on charges
149 for the accommodations and services described in Subsection 59-12-103(1)(i) for transactions
150 that occur on point of the mountain state land, at a rate of not to exceed 5%.

151 (2) The board shall by resolution regulate a tax under this section.

152 (3) All revenue from a tax imposed under this section shall be used to provide
153 affordable housing as a community reinvestment agency uses funds for affordable housing
154 under Section 17C-1-412.

155 Section 5. Section **11-59-302** is amended to read:

156 **11-59-302. Number of board members -- Appointment -- Vacancies -- Chairs.**

157 (1) The board shall consist of [††] 12 members as provided in Subsection (2).

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

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

162 (c) The governor shall appoint [~~four~~] five individuals to serve as members of the board:

163 (i) one of whom shall be a member of the board of or employed by the Governor's
164 Office of Economic Opportunity, created in Section 63N-1a-301; [~~and~~]

165 (ii) one of whom shall be an employee of the [~~Division of Facilities Construction and~~
166 ~~Management, created in Section 63A-5b-301.~~] facilities division; and

167 (iii) one of whom shall be an elected official from a municipality in close proximity to
168 the municipality in which the point of the mountain state land is located.

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

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

173 (f) The commissioner of higher education, appointed under Section 53B-1-408, or the
174 commissioner's designee, shall serve as a board member.

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

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

182 (b) Each person appointed or designated to fill a vacancy shall serve the remaining

183 unexpired term of the member whose vacancy the person is filling.

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

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

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

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

193 Section 6. Section 11-59-304 is amended to read:

194 **11-59-304. Staff and other support services -- Cooperation from state and local**
195 **government entities.**

196 (1) As used in this section[~~:(a) "Division" means the Division of Facilities~~
197 ~~Construction and Management, created in Section 63A-5b-301.~~ (b) "Office"], "office" means
198 the Governor's Office of Economic Opportunity, created in Section 63N-1a-301.

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

200 (a) the facilities division shall:

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

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

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

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

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

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

214 Section 7. Section **11-59-501** is amended to read:

215 **11-59-501. Dissolution of authority -- Restrictions -- Publishing notice of**
216 **dissolution -- Authority records -- Dissolution expenses.**

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

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

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

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

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

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

228 (3) Upon the dissolution of the authority:

229 (a) the Governor's Office of Economic Opportunity shall publish a notice of
230 dissolution:

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

233 (ii) as required in Section [45-1-101](#); and

234 (b) all title to property owned by the authority vests in the [~~Division of Facilities~~
235 ~~Construction and Management, created in Section [63A-5b-301](#);~~] facilities division for the
236 benefit of the state.

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

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

240 Section 8. Section **52-4-205** is amended to read:

241 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**
242 **meetings.**

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

244 (a) except as provided in Subsection (3), discussion of the character, professional

245 competence, or physical or mental health of an individual;

246 (b) strategy sessions to discuss collective bargaining;

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

248 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,

249 including any form of a water right or water shares, or to discuss a proposed development

250 agreement, project proposal, or financing proposal related to the development of land owned by

251 the state, if public discussion would:

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

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

254 (e) strategy sessions to discuss the sale of real property, including any form of a water

255 right or water shares, if:

256 (i) public discussion of the transaction would:

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

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

259 (ii) the public body previously gave public notice that the property would be offered for

260 sale; and

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

262 sale;

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

264 (g) investigative proceedings regarding allegations of criminal misconduct;

265 (h) as relates to the Independent Legislative Ethics Commission, conducting business

266 relating to the receipt or review of ethics complaints;

267 (i) as relates to an ethics committee of the Legislature, a purpose permitted under

268 Subsection [52-4-204\(1\)\(a\)\(iii\)\(C\)](#);

269 (j) as relates to the Independent Executive Branch Ethics Commission created in

270 Section [63A-14-202](#), conducting business relating to an ethics complaint;

271 (k) as relates to a county legislative body, discussing commercial information as

272 defined in Section [59-1-404](#);

273 (l) as relates to the Utah Higher Education Assistance Authority and its appointed

274 board of directors, discussing fiduciary or commercial information as defined in Section

275 [53B-12-102](#);

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

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

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

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

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

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

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

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

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

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

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

302 (q) as it relates to the Cannabis Production Establishment Licensing Advisory Board,
303 to review confidential information regarding violations and security requirements in relation to
304 the operation of cannabis production establishments; [or]

305 (r) a discussion of the board of the Point of the Mountain State Land Authority, created
306 in Section 11-59-201, regarding a potential tenant of point of the mountain state land, as

307 defined in Section 11-59-102; or

308 [(†)] (s) a purpose for which a meeting is required to be closed under Subsection (2).

309 (2) The following meetings shall be closed:

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

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

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

316 (ii) review and discuss an individual case, as described in Subsection 36-33-103(2);

317 (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in
318 Section 26-7-13, to review and discuss an individual case, as described in Subsection
319 26-7-13(10);

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

324 (e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for
325 the purpose of reviewing petitions for a medical cannabis card in accordance with Section
326 26-61a-105;

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

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

330 (ii) failing to close the meeting would:

331 (A) reveal the contents of a record classified as protected under Subsection
332 63G-2-305(82);

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

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

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

340 (g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

341 (i) the purpose of the meeting is to discuss an application for participation in the
342 regulatory sandbox as defined in Section 63N-16-102; and

343 (ii) failing to close the meeting would reveal the contents of a record classified as
344 protected under Subsection 63G-2-305(83);

345 (h) a meeting of a project entity if:

346 (i) the purpose of the meeting is to conduct a strategy session to discuss market
347 conditions relevant to a business decision regarding the value of a project entity asset if the
348 terms of the business decision are publicly disclosed before the decision is finalized and a
349 public discussion would:

350 (A) disclose the appraisal or estimated value of the project entity asset under
351 consideration; or

352 (B) prevent the project entity from completing on the best possible terms a
353 contemplated transaction concerning the project entity asset;

354 (ii) the purpose of the meeting is to discuss a record, the disclosure of which could
355 cause commercial injury to, or confer a competitive advantage upon a potential or actual
356 competitor of, the project entity;

357 (iii) the purpose of the meeting is to discuss a business decision, the disclosure of
358 which could cause commercial injury to, or confer a competitive advantage upon a potential or
359 actual competitor of, the project entity; or

360 (iv) failing to close the meeting would prevent the project entity from getting the best
361 price on the market; and

362 (i) a meeting of the School Activity Eligibility Commission, described in Section
363 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to
364 consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's
365 eligibility to participate in an interscholastic activity, as that term is defined in Section
366 53G-6-1001, including the commission's determinative vote on the student's eligibility.

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

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

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

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