

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

2 2018 GENERAL SESSION

3 STATE OF UTAH

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

5 Senate Sponsor: Jerry W. Stevenson

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 ENACTS:



- 28 [11-58-101](#), Utah Code Annotated 1953
- 29 [11-58-102](#), Utah Code Annotated 1953
- 30 [11-58-103](#), Utah Code Annotated 1953
- 31 [11-58-104](#), Utah Code Annotated 1953
- 32 [11-58-201](#), Utah Code Annotated 1953
- 33 [11-58-202](#), Utah Code Annotated 1953
- 34 [11-58-203](#), Utah Code Annotated 1953
- 35 [11-58-204](#), Utah Code Annotated 1953
- 36 [11-58-301](#), Utah Code Annotated 1953
- 37 [11-58-302](#), Utah Code Annotated 1953
- 38 [11-58-303](#), Utah Code Annotated 1953
- 39 [11-58-304](#), Utah Code Annotated 1953
- 40 [11-58-305](#), Utah Code Annotated 1953
- 41 [11-58-306](#), Utah Code Annotated 1953
- 42 [11-58-401](#), Utah Code Annotated 1953
- 43 [11-58-402](#), Utah Code Annotated 1953
- 44 [11-58-403](#), Utah Code Annotated 1953
- 45 [11-58-404](#), Utah Code Annotated 1953
- 46 [11-58-501](#), Utah Code Annotated 1953



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

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

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

51 **Part 1. General Provisions**

52 **11-58-101. Title.**

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

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

55 **11-58-102. Definitions.**

56 As used in this chapter:

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

58 Section [11-58-201](#).

- 59 (2) "Board" means the authority's board, created in Section [11-58-301](#).
- 60 (3) "Development":
- 61 (a) means the construction, reconstruction, modification, expansion, or improvement of
62 a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or
63 other facility, including:
- 64 (i) the demolition or preservation or repurposing of a building, infrastructure, or other
65 facility; and
- 66 (ii) any associated planning, design, engineering, and related activities; and
- 67 (b) includes all activities associated with:
- 68 (i) marketing and business recruiting activities and efforts; and
- 69 (ii) leasing, or selling or otherwise disposing of, all or any part of the point of the
70 mountain state land.
- 71 (4) "New correctional facility" means the state correctional facility being developed in
72 Salt Lake City to replace the state correctional facility in Draper.
- 73 (5) "Point of the mountain state land":
- 74 (a) means the approximately 700 acres of state-owned land in Draper used for the
75 operation of a state correctional facility until completion of the new correctional facility; and
- 76 (b) does not include state-owned land that is used for a purpose other than the
77 operation of a state correctional facility.
- 78 Section 3. Section **11-58-103** is enacted to read:
- 79 **11-58-103. Scope of chapter -- Limit on selling or leasing point of the mountain**
80 **state land -- No effect on prison operations.**
- 81 (1) This chapter governs the management of the point of the mountain state land, and
82 the process of planning, managing, and implementing the development of the point of the
83 mountain state land:
- 84 (a) beginning May 8, 2018;
- 85 (b) subject to Subsection (3), during the transition period as prison operations on the
86 point of the mountain state land continue and eventually wind down in anticipation of the
87 relocation of prison operations to the new correctional facility; and
- 88 (c) upon and after the transfer of prison operations to the new correctional facility.
- 89 (2) No part of the point of the mountain state land may be sold or otherwise disposed

90 of or leased without the approval of the board.

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

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

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

96 Section 4. Section **11-58-104** is enacted to read:

97 **11-58-104. Authority funds nonlapsing.**

98 All funds received by the authority are nonlapsing.

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

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

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

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

104 (2) The authority is:

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

107 (b) a political subdivision of the state; and

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

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

112 (a) beginning May 8, 2018;

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

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

117 Section 6. Section **11-58-202** is enacted to read:

118 **11-58-202. Authority powers.**

119 The authority may:

120 (1) as provided in this chapter, plan, manage, and implement the development of the

121 point of the mountain state land, including the ongoing operation of facilities on the point of
122 the mountain state land;

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

128 (3) sue and be sued;

129 (4) enter into contracts generally;

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

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

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

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

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

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

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

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

- 152 (13) hire employees, including contract employees;
- 153 (14) transact other business and exercise all other powers provided for in this chapter;
- 154 (15) enter into a development agreement with a developer of some or all of the point of
- 155 the mountain state land;
- 156 (16) provide for or finance an energy efficiency upgrade, a renewable energy system, or
- 157 electric vehicle charging infrastructure as defined in Section 11-42-102, in accordance with
- 158 Title 11, Chapter 42, Assessment Area Act;
- 159 (17) exercise powers and perform functions that the authority is authorized by statute
- 160 to exercise or perform;
- 161 (18) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal
- 162 Cooperation Act, with one or more local government entities for the delivery of services to the
- 163 point of the mountain state land; and
- 164 (19) enter into an agreement with the federal government or an agency of the federal
- 165 government, as the board considers necessary or advisable to enable or assist the authority to
- 166 exercise its powers or fulfill its duties and responsibilities under this chapter.

167 Section 7. Section 11-58-203 is enacted to read:

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

169 (1) As the authority plans, manages, and implements the development of the point of

170 the mountain state land, the authority shall pursue development strategies and objectives

171 designed to:

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

173 trained workforce;

174 (b) ensure strategic residential and commercial growth;

175 (c) promote a high quality of life for residents on and surrounding the point of the

176 mountain state land, including strategic planning to facilitate:

177 (i) jobs close to where people live;

178 (ii) vibrant urban centers;

179 (iii) housing types that match workforce needs;

180 (iv) parks, connected trails, and open space, including the preservation of natural lands

181 to the extent practicable and consistent with the overall development plan; and

182 (v) preserving and enhancing recreational opportunities;

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

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

186 (f) accommodate and incorporate an enhanced and expanded future transit and
187 transportation infrastructure and other investments, including world class transit, to enhance
188 mobility and protect the environment.

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

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

192 (i) relevant metropolitan planning organizations; and

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

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

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

198 Section 8. Section 11-58-204 is enacted to read:

199 **11-58-204. Applicability of other law -- Coordination with municipality.**

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

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

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

203 Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1,
204 Special Service District Act.

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

208 (3) The authority is subject to and governed by Sections [63E-2-106](#), [63E-2-107](#),
209 [63E-2-108](#), [63E-2-109](#), [63E-2-110](#), and [63E-2-111](#), but is not otherwise subject to or governed
210 by Title 63E, Independent Entities Code.

211 Section 9. Section 11-58-301 is enacted to read:

212 **Part 3. Authority Board**

213 **11-58-301. Authority board -- Delegation of power.**

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

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

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

218 Section 10. Section **11-58-302** is enacted to read:

219 **11-58-302. Number of board members -- Appointment.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

255 **11-58-303. Term of board members -- Quorum requirements -- Compensation.**

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

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

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

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

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

267 (ii) rules made by the Division of Finance according to Sections 63A-3-106 and
268 63A-3-107.

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

271 Section 12. Section **11-58-304** is enacted to read:

272 **11-58-304. Staff and other support services.**

273 (1) As used in this section:

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

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

278 (2) The division shall:

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

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

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

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

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

288 Section 13. Section **11-58-305** is enacted to read:

289 **11-58-305. Considering recommendations of the Point of the Mountain**
290 **Development Commission -- Board recommendations on financing.**

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

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

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

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

300 Section 14. Section **11-58-306** is enacted to read:

301 **11-58-306. Limitations on board members.**

302 (1) As used in this section:

303 (a) "Direct financial benefit":

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

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

307 and

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

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

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

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

314 (i) a legal or equitable interest;

315 (ii) an option on real property;

316 (iii) an interest under a contract;

317 (iv) fee simple ownership;

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

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

323 (vii) leasehold interest; and

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

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

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

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

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

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

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

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

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

350 Section 15. Section **11-58-401** is enacted to read:

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

352 **11-58-401. Annual authority budget -- Fiscal year -- Public hearing required --**
353 **Auditor forms -- Requirement to file form.**

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

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

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

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

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

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

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

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

368 (5) The state auditor shall prescribe the budget forms and the categories to be contained

369 in each authority budget, including:

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

371 (b) legal fees; and

372 (c) administrative costs, including rent, supplies, and other materials, and salaries of

373 authority personnel.

374 Section 16. Section **11-58-402** is enacted to read:

375 **11-58-402. Amending the authority annual budget.**

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

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

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

382 Section 17. Section **11-58-403** is enacted to read:

383 **11-58-403. Audit requirements.**

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

387 Section 18. Section **11-58-404** is enacted to read:

388 **11-58-404. Authority chief financial officer is a public treasurer -- Certain**
389 **authority funds are public funds.**

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

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

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

394 (2) Notwithstanding Subsection [63E-2-110\(2\)\(a\)](#), appropriations that the authority
395 receives from the state:

396 (a) are public funds; and

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

398 Section 19. Section **11-58-501** is enacted to read:

399 **Part 5. Authority Dissolution**

400 **11-58-501. Dissolution of authority -- Restrictions -- Filing copy of ordinance --**
401 **Authority records -- Dissolution expenses.**

402 (1) The authority may not be dissolved unless:
403 (a) the authority board first receives approval from the Legislative Management
404 Committee of the Legislature to dissolve the authority; and
405 (b) the authority has no outstanding bonded indebtedness, other unpaid loans,
406 indebtedness, or advances, and no legally binding contractual obligations with persons or
407 entities other than the state.

408 (2) To dissolve the authority, the board shall:
409 (a) obtain the approval of the Legislative Management Committee of the Legislature;
410 and
411 (b) adopt a resolution dissolving the authority, to become effective as provided in the
412 resolution.

413 (3) Upon the dissolution of the authority:
414 (a) the Governor's Office of Economic Development shall publish a notice of
415 dissolution:
416 (i) in a newspaper of general circulation in the county in which the dissolved authority
417 is located; and
418 (ii) as required in Section [45-1-101](#); and
419 (b) all title to property owned by the authority vests in the Division of Facilities
420 Construction and Management, created in Section [63A-5-201](#), for the benefit of the state.

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

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

Legislative Review Note
Office of Legislative Research and General Counsel