

OPEN SPACE NEAR STATE PRISON

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: R. Mont Evans

AN ACT RELATING TO ADMINISTRATIVE SERVICES; DEFINING CRITICAL LAND; REQUIRING THE CRITICAL LAND TO BE PRESERVED AS OPEN LAND; RESTRICTING THE TRANSFER OF AN INTEREST IN THE CRITICAL LAND WITH LIMITED EXCEPTIONS; ALLOWING THE CREATION OF ADDITIONAL WETLANDS ON THE CRITICAL LAND; ALLOWING CORRECTIONS ACCESS TO A CERTAIN PART OF THE LAND; REQUIRING STATE AGENCIES TO COOPERATE TOGETHER IN CARRYING OUT LEGISLATIVE INTENT; REPEALING EXISTING PROVISIONS REGARDING CRITICAL LAND; AND PROVIDING A COORDINATION CLAUSE.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

63A-5-222, Utah Code Annotated 1953

REPEALS:

63A-5-221, as enacted by Chapter 399, Laws of Utah 1998

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

Section 1. Section **63A-5-222** is enacted to read:

63A-5-222. Critical land near state prison -- Definitions -- Preservation as open land -- Management and use of land -- Restrictions on transfer -- Wetlands development.

(1) For purposes of this section:

(a) "Corrections" means the Department of Corrections created under Section 64-13-2.

(b) "Critical land" means a parcel of approximately 250 acres of land owned by the division and located on the east edge of the Jordan River between about 12300 South and 14600 South in Salt Lake County, approximately the southern half of whose eastern boundary abuts the Denver and Rio Grande Western Railroad right of way.

(c) "Division" means the Division of Facilities Construction and Management created under Section 63A-5-201.

(d) "Open land" means land that is:

(i) preserved predominantly in a natural, open, and undeveloped condition; and

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) water source protection; or

(D) another use consistent with the preservation of the land in a predominantly natural, open, and undeveloped condition.

(2) (a) (i) The critical land shall be preserved in perpetuity as open land.

(ii) The long-term ownership and management of the critical land should eventually be turned over to the Department of Natural Resources created under Section 63-34-3 or another agency or entity that is able to accomplish the purposes and intent of this section.

(b) Notwithstanding Subsection (2)(a)(i) and as funding is available, certain actions should be taken on or with respect to the critical land, including:

(i) the development and implementation of a program to eliminate noxious vegetation and restore and facilitate the return of natural vegetation on the critical land;

(ii) the development of a system of trails through the critical land that is compatible with the preservation of the critical land as open land;

(iii) the development and implementation of a program to restore the natural features of and improve the flows of the Jordan River as it crosses the critical land;

(iv) the preservation of the archeological site discovered on the critical land and the development of an interpretive site in connection with the archeological discovery;

(v) in restoring features on the critical land, the adoption of methods and plans that will enhance the critical land's function as a wildlife habitat;

(vi) taking measures to reduce safety risks on the critical land; and

(vii) the elimination or rehabilitation of a prison dump site on the critical land.

(3) (a) Except as provided in Subsection (3)(b), no interest in the critical land may be sold, assigned, leased, or otherwise transferred unless measures are taken to ensure that the critical land

that is transferred will be preserved as open land in perpetuity.

(b) Notwithstanding Subsection (3)(a), exchanges of property may be undertaken to resolve boundary disputes with adjacent property owners and easements may be granted for trails and other purposes consistent with Subsection (2)(b) and with the preservation of the critical land as open land.

(4) The division shall use the funds remaining from the appropriation under Chapter 399, Laws of Utah 1998, for the purposes of:

(a) determining the boundaries and legal description of the critical land;

(b) determining the boundaries and legal description of the adjacent property owned by the division;

(c) fencing the critical land and adjacent land owned by the division where appropriate and needed; and

(d) assisting to carry out the intent of this section.

(5) (a) Notwithstanding Subsection (2)(a)(i), the division or its successor in title to the critical land may develop or allow a public agency or private entity to develop more wetlands on the critical land than exist naturally or existed previously.

(b) (i) Subject to Subsections (3)(a) and (5)(b)(ii), the division or its successor in title may transfer jurisdiction of all or a portion of the critical land to a public agency or private entity to provide for the development and management of wetlands and designated wetland buffer areas.

(ii) Before transferring jurisdiction of any part of the critical land under Subsection (5)(b)(i), the division or its successor in title shall assure that reasonable efforts are made to obtain approval from the appropriate federal agency to allow mitigation credits in connection with the critical land to be used for impacts occurring anywhere along the Wasatch Front.

(6) Notwithstanding any other provision of this section, corrections shall have access to the cooling pond located on the critical land as long as that access to and use of the cooling pond are not inconsistent with the preservation of the critical land as open land.

(7) (a) Corrections, the division, and all other state departments, divisions, or agencies shall cooperate together to carry out the intent of this section.

(b) The division, with the cooperation and assistance of the Governor's Office of Planning

and Budget established under Section 63-38-1.4, shall report to the Political Subdivisions Interim Committee of the Legislature no later than November 30, 1999, concerning the efforts and actions of the division and other state agencies under this section to carry out the intent of this section.

Section 2. Repealer.

This act repeals:

Section 63A-5-221, Jordan River Critical Land -- DFCM to arrange survey -- OPB to recommend use.

Section 3. Coordination clause.

If this bill and H.B. 119, Quality Growth Act of 1999, both pass, it is the intent of the Legislature that the definition of "open land" contained under Section 11-38-102 in H.B. 119 be substituted for the definition of "open land" in this bill.