

OPEN SPACE NEAR STATE PRISON

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: R. Mont Evans

AN ACT RELATING TO TRANSPORTATION; REQUIRING THE DIVISION OF FACILITIES AND CONSTRUCTION MANAGEMENT TO TRANSFER TITLE OF CERTAIN PROPERTY TO UDOT; REQUIRING UDOT TO PERFORM CERTAIN RESTORATION OF THE PROPERTY AND OTHERWISE TO PRESERVE IT AS OPEN LAND AND FOR OTHER LIMITED USES; AUTHORIZING UDOT TO TRANSFER THE LAND UNDER CERTAIN CIRCUMSTANCES; ALLOWING CORRECTIONS ACCESS TO A CERTAIN PART OF THE LAND; AND REQUIRING OTHER AGENCIES TO COOPERATE WITH UDOT IN FULFILLING ITS RESPONSIBILITIES FOR THE LAND.

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

ENACTS:

72-5-116, 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 **72-5-116** is enacted to read:

72-5-116. Critical land near state prison -- Transfer of land to UDOT -- UDOT's duties with respect to critical land.

(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) to be used for cultural or recreational use, a wildlife habitat, water source protection, or another use consistent with the preservation of the land in a predominantly natural, open, and undeveloped condition.

(e) "Water source protection" means preserving or enhancing the quantity or quality of water in a stream, lake, aquifer, or other water source located within a watershed or on land where water can easily infiltrate into a subsurface aquifer.

(2) (a) As soon as reasonably practicable after the effective date of this section, the division shall transfer title of the critical land to UDOT.

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

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

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

(iii) fencing the land referred to in Subsections (2)(b)(i) and (ii) where appropriate and needed; and

(iv) assisting UDOT to carry out its responsibilities under Subsection (3)(a).

(3) (a) To the extent that funds are available from its own budget, with such appropriations as the Legislature provides for purposes of the critical land, and with such funds as may be available from other sources to assist in the restoration and preservation of the critical land, UDOT shall:

(i) except as otherwise provided in Subsections (3)(a)(ii), (iii), (iv),(v), and (vi) and (3)(b), preserve the critical land as open land;

(ii) develop and implement a program to eliminate noxious vegetation and restore and facilitate the return of natural vegetation on the critical land;

(iii) cooperate and participate with local governments and others to develop a system of trails through the critical land that is compatible with the preservation of the critical land as open land;

59 (iv) develop and implement a program to restore the natural features of and improve the
60 flows of the Jordan River as it crosses the critical land;

61 (v) rehabilitate the portion of the critical land on which materials from the construction
62 of the Bangerter Highway were dumped;

63 (vi) work with other state agencies to preserve the archeological site discovered on the
64 critical land, and allow the development of an interpretive site in connection with the archeological
65 discovery;

66 (vii) in restoring features of the critical land, adopt methods and plans that will enhance
67 the critical land's function as a wildlife habitat; and

68 (viii) take measures UDOT considers appropriate to reduce or eliminate safety risks on the
69 critical land.

70 (b) Notwithstanding Subsection (3)(a), UDOT may develop more wetlands on the critical
71 land than exist naturally or existed previously to assist in the program of mitigating wetlands
72 destruction at other locations.

73 (c) UDOT shall make reasonable efforts to obtain approval from the appropriate federal
74 agency to allow mitigation credits in connection with the critical land to be used for impacts
75 occurring anywhere along the Wasatch Front.

76 (4) (a) Except as provided in Subsection (4)(b), UDOT may not sell, assign, lease, or
77 otherwise transfer any portion of the critical land or transfer any interest in the critical land without
78 first taking measures to ensure that the critical land that is transferred will be preserved as open
79 land.

80 (b) Notwithstanding Subsection (4)(a), UDOT may participate in exchanges of property
81 to resolve boundary disputes with adjacent property owners and may grant easements for trails and
82 other purposes consistent with the preservation of the critical land as open land.

83 (c) Subject to Subsection (4)(a), UDOT may transfer title of the critical land to another
84 state agency or private organization for the purpose of preserving the critical land as open land in
85 perpetuity.

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

89 (6) Corrections, the division, and all other state departments, divisions, or agencies shall

90 cooperate with UDOT in its efforts to fulfill its responsibilities under this section.

91 Section 2. **Repealer.**

92 This act repeals:

93 Section **63A-5-221, Jordan River Critical Land -- DFCM to arrange survey -- OPB**

94 **to recommend use.**

Legislative Review Note

as of 1-25-99 3:18 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel