

**STATE-OWNED LAND AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kerry W. Gibson**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill modifies a provision relating to specified critical land.

**Highlighted Provisions:**

This bill:

▶ modifies the definition of "critical land" to include a parcel for which part of the land is exchanged;

▶ authorizes the Department of Natural Resources to exchange a portion of a critical land parcel if certain conditions are met; and

▶ authorizes the Division of Facilities Construction and Management to ~~Ĥ~~→ [donate] exchange ←Ĥ certain land it owns to a public transit district for a specified purpose.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**63A-5-222**, as last amended by Laws of Utah 2008, Chapter 250

ENACTS:

**63A-5-223**, Utah Code Annotated 1953

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

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

30 **63A-5-222. Critical land near state prison -- Definitions -- Preservation as open**  
31 **land -- Management and use of land -- Restrictions on transfer -- Wetlands development**  
32 **-- Conservation easement.**

33 (1) For purposes of this section:

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

35 (b) "Critical land" means:

36 (i) a parcel of approximately 250 acres of land owned by the division and located on  
37 the east edge of the Jordan River between about 12300 South and 14600 South in Salt Lake  
38 County, approximately the southern half of whose eastern boundary abuts the Denver and Rio  
39 Grande Western Railroad right-of-way[-]; and

40 (ii) any parcel acquired in a transaction authorized under Subsection (3)(c) as a  
41 replacement for a portion of the parcel described in Subsection (1)(b)(i) that is conveyed as part  
42 of the transaction.

43 (c) (i) "Open land" means land that is:

44 (A) preserved in or restored to a predominantly natural, open, and undeveloped  
45 condition; and

46 (B) used for:

47 (I) wildlife habitat;

48 (II) cultural or recreational use;

49 (III) watershed protection; or

50 (IV) another use consistent with the preservation of the land in or restoration of the  
51 land to a predominantly natural, open, and undeveloped condition.

52 (ii) (A) "Open land" does not include land whose predominant use is as a developed  
53 facility for active recreational activities, including baseball, tennis, soccer, golf, or other  
54 sporting or similar activity.

55 (B) The condition of land does not change from a natural, open, and undeveloped  
56 condition because of the development or presence on the land of facilities, including trails,  
57 waterways, and grassy areas, that:

58 (I) enhance the natural, scenic, or aesthetic qualities of the land; or

59 (II) facilitate the public's access to or use of the land for the enjoyment of its natural,  
60 scenic, or aesthetic qualities and for compatible recreational activities.

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

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

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

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

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

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

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

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

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

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

79 (3) (a) Except as provided in ~~Subsection~~ Subsections (3)(b) and (c), no interest in the  
80 critical land may be sold, assigned, leased, or otherwise transferred unless measures are taken  
81 to ensure that the critical land that is transferred will be preserved as open land in perpetuity.

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

86 (c) The Department of Natural Resources may transfer title to a portion of the critical  
87 land described in Subsection (1)(b)(i) in exchange for a parcel of land if:

88 (i) the parcel being acquired is:

89 (A) open land; and

90 (B) located within one mile of the portion of critical land being transferred; and  
91 (ii) the purpose of the exchange is to facilitate the development of a commuter rail  
92 transit station and associated transit oriented development.

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

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

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

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

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

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

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

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

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

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

117 (8) In order to ensure that the land referred to in this section is preserved as open land,  
118 the division shall, as soon as practicable, place the land under a perpetual conservation  
119 easement in favor of an independent party such as a reputable land conservation organization or  
120 a state or local government agency with experience in conservation easements.

121 Section 2. Section **63A-5-223** is enacted to read:

122 **63A-5-223. Authority to donate land for commuter rail station and related**  
123 **development.**

124 The division may ~~H~~→ [donate] transfer title to ~~H~~← a parcel of land it owns in a county of  
124a the first class to a public  
125 transit district for the purpose of facilitating the development of a commuter rail transit station  
126 and associated transit oriented development if ~~H~~→ :

126a (1) ~~H~~← the parcel is within one mile of the proposed  
127 commuter rail transit station and associated transit oriented development ~~H~~→ [;] ; and  
127a (2) the division receives in return fair and adequate consideration. ~~H~~←

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Legislative Review Note  
as of 2-20-09 11:31 AM

Office of Legislative Research and General Counsel

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**H.B. 179 - State-owned Land Amendments**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations. Any fiscal impact to the state would depend on the fair market value of land transactions authorized by the bill.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or businesses. Any fiscal impact to local transit districts would depend on the fair market value of land transactions authorized by the bill.

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