

Representative Kevin S. Garn proposes to substitute the following bill:

QUALITY GROWTH ACT OF 1999

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Kevin S. Garn

5	Ralph Becker	Lawanna Shurtliff	Jackie Biskupski
6	Susan J. Koehn	Fred J. Fife	Carl W. Duckworth
7	Patrice M. Arent	Loretta Baca	Brent H. Goodfellow
8	Martin R. Stephens	Neil A. Hansen	Gary F. Cox
9	Greg J. Curtis	Karen W. Morgan	Michael R. Styler
10	Brad King	Kory M. Holdaway	Marlon O. Snow
11	Lowell A. Nelson	Jordan Tanner	Wayne A. Harper
12	Joseph G. Murray	Blake D. Chard	Marda Dillree
13	David Ure	Keele Johnson	Richard M. Siddoway
14	Sheryl L. Allen	Judy Ann Buffmire	Chad E. Bennion
15	David M. Jones	Duane E. Bourdeaux	Perry L. Buckner
16	David L. Hogue	Trisha S. Beck	Glenn L. Way
17	David L. Gladwell	Mary Carlson	Ron Bigelow
18	A. Lamont Tyler	Afton B. Bradshaw	James R. Gowans

19 AN ACT RELATING TO CITIES, TOWNS, AND LOCAL TAXING DISTRICTS;
20 ESTABLISHING A QUALITY GROWTH COMMISSION; PROVIDING DUTIES AND
21 POWERS OF THE COMMISSION; REESTABLISHING THE LERAY MCALLISTER
22 CRITICAL LAND CONSERVATION FUND AND PROVIDING FOR ITS ADMINISTRATION;
23 EXPRESSING LEGISLATIVE INTENT ON QUALITY GROWTH AREAS; ALLOWING PART
24 OF FUTURE INCREASES IN THE PRIVATE ACTIVITY BOND VOLUME CAP TO BE USED
25 FOR CERTAIN PURPOSES; PROVIDING FUNDING SOURCES FOR THE LERAY
26 MCALLISTER FUND; PROVIDING FOR THE ESTABLISHMENT OF A STATE BUILDING
27 ENERGY EFFICIENCY PROGRAM, WITH SOME OF THE ENERGY SAVINGS FUNDS TO
28 GO TO THE LERAY MCALLISTER FUND; REPEALING AN EXISTING ENERGY
29 EFFICIENCY PROGRAM; PROVIDING EXCEPTIONS TO CERTAIN BUDGETARY

30 PROCEDURES IN CERTAIN CASES; APPROPRIATING \$250,000 FROM THE GENERAL
31 FUND FOR TECHNICAL ASSISTANCE FOR LOCAL ENTITIES; MAKING TECHNICAL
32 AND CONFORMING CHANGES; AND PROVIDING AN EFFECTIVE DATE.

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

34 AMENDS:

35 **9-4-505**, as last amended by Chapter 192, Laws of Utah 1997

36 **63-38-3**, as last amended by Chapter 313, Laws of Utah 1994

37 **63-38-8.1**, as enacted by Chapter 76, Laws of Utah 1994

38 **63A-1-112**, as renumbered and amended by Chapter 212, Laws of Utah 1993

39 ENACTS:

40 **11-38-101**, Utah Code Annotated 1953

41 **11-38-102**, Utah Code Annotated 1953

42 **11-38-201**, Utah Code Annotated 1953

43 **11-38-202**, Utah Code Annotated 1953

44 **11-38-203**, Utah Code Annotated 1953

45 **11-38-301**, Utah Code Annotated 1953

46 **11-38-302**, Utah Code Annotated 1953

47 **63-9-67**, Utah Code Annotated 1953

48 **63-38-18**, Utah Code Annotated 1953

49 REPEALS:

50 **11-28-101**, as enacted by Chapter 323, Laws of Utah 1998

51 **11-28-102**, as enacted by Chapter 323, Laws of Utah 1998

52 **11-28-103**, as enacted by Chapter 323, Laws of Utah 1998

53 **11-28-104**, as enacted by Chapter 323, Laws of Utah 1998

54 **11-28-105**, as enacted by Chapter 323, Laws of Utah 1998

55 **11-28-106**, as enacted by Chapter 323, Laws of Utah 1998

56 **11-28-107**, as enacted by Chapter 323, Laws of Utah 1998

57 **11-28-108**, as enacted by Chapter 323, Laws of Utah 1998

58 **63-9-64**, as last amended by Chapter 212, Laws of Utah 1993

59 **63-9-65**, as last amended by Chapter 85, Laws of Utah 1986

60 This act enacts uncodified material.

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

62 Section 1. Section **9-4-505** is amended to read:

63 **9-4-505. Allocation of volume cap.**

64 (1) ~~[The]~~ (a) Subject to Subsection (1)(b), the volume cap for each year shall be
65 distributed by the board of review to the various allotment accounts as set forth in Section 9-4-506.

66 (b) The board of review may distribute up to 50% of each increase in the volume cap that
67 occurs after the effective date of this Subsection (1)(b) for use in development that occurs in
68 quality growth areas, depending upon the board's analysis of the relative need for additional
69 volume cap between development in quality growth areas and the allotment accounts under Section
70 9-4-506.

71 (2) To obtain an allocation of the volume cap, issuing authorities shall submit to the board
72 of review an application containing information required by the procedures and processes of the
73 board of review.

74 (3) The board of review shall establish criteria for making allocations of volume cap that
75 are consistent with the purposes of the code and this part. In making an allocation of volume cap
76 the board of review shall consider the following:

77 (a) the principal amount of the bonds proposed to be issued;

78 (b) the nature and the location of the project or the type of program;

79 (c) the likelihood that the bonds will be sold and the timeframe of bond issuance;

80 (d) whether the project or program could obtain adequate financing without an allocation
81 of volume cap;

82 (e) the degree to which an allocation of volume cap is required for the project or program
83 to proceed or continue;

84 (f) the social, health, economic, and educational effects of the project or program on the
85 local community and state as a whole;

86 (g) the anticipated number of jobs, both temporary and permanent, created or retained
87 within the local community and the state as a whole; ~~[and]~~

88 (h) if the project is a residential rental project, the degree to which the residential rental
89 project targets lower income populations; and

90 (i) whether the project meets the principles of quality growth recommended by the Quality
91 Growth Commission created under Section 11-38-201.

92 (4) The board of review shall evidence an allocation of volume cap by issuing a certificate
93 in accordance with Section 9-4-507.

94 Section 2. Section 11-38-101 is enacted to read:

95 **CHAPTER 38. QUALITY GROWTH ACT**

96 **Part 1. General Provisions**

97 **11-38-101. Title.**

98 This chapter is known as the "Quality Growth Act."

99 Section 3. Section 11-38-102 is enacted to read:

100 **11-38-102. Definitions.**

101 As used in this chapter:

102 (1) "Affordable housing" means housing occupied or reserved for occupancy by
103 households with a gross household income equal to or less than 80% of the median gross income
104 of the applicable municipal or county statistical area for households of the same size.

105 (2) "Agricultural land" has the same meaning as "land in agricultural use" under Section
106 59-2-502.

107 (3) "Brownfield sites" means abandoned, idled, or underused commercial or industrial land
108 where expansion or redevelopment is complicated by real or perceived environmental
109 contamination.

110 (4) "Commission" means the Quality Growth Commission established in Section
111 11-38-201.

112 (5) "Fund" means the LeRay McAllister Critical Land Conservation Fund established in
113 Section 11-28-301.

114 (6) "Infill development" means residential, commercial, or industrial development on
115 unused or underused land, excluding open land and agricultural land, within existing, otherwise
116 developed urban areas.

117 (7) "Local entity" means a county, city, or town.

118 (8) "OPB" means the governor's Office of Planning and Budget established under Section
119 63-38-1.4.

120 (9) "Open land" means land that is:

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

122 (b) used for:

- 123 (i) wildlife habitat;
- 124 (ii) cultural or recreational use;
- 125 (iii) ~~h~~ [water source] WATERSHED ~~h~~ protection; or
- 126 (iv) another use consistent with the preservation of the land in a predominantly natural,
- 127 open, and undeveloped condition.

128 (10) "State agency" includes each executive ~~h~~ , LEGISLATIVE, AND JUDICIAL ~~h~~ branch
 128a department, agency, board, ~~h~~ [or] ~~h~~
 129 commission ~~h~~ , OR DIVISION, HOWEVER DENOMINATED, ~~h~~ and each state educational institution.

130 (11) "State Building Energy Efficiency Program" has the meaning as defined in Section
 131 63-9-67.

132 (12) "Surplus land" means real property owned by the Department of Administrative
 133 Services, the Department of Agriculture and Food, the Department of Natural Resources, or the
 134 Department of Transportation that the individual department determines not to be necessary for
 135 carrying out the mission of the department.

136 Section 4. Section 11-38-201 is enacted to read:

137 **Part 2. Quality Growth Commission**

138 **11-38-201. Quality Growth Commission -- Term of office -- Vacancy -- Organization**
 139 **-- Expenses -- Staff.**

140 (1) There is created a Quality Growth Commission consisting of:

141 (a) two persons at the state government level ~~h~~ , **ONE OF WHOM SHALL BE FROM THE**
 141a **DEPARTMENT OF NATURAL RESOURCES ~~h~~ :**

142 (b) six elected officials at the local government level; and

143 (c) five persons ~~h~~ **FROM THE PROFIT AND NONPROFIT PRIVATE SECTOR ~~h~~ , no more than**
 143a three of whom may be from the same political party and one
 144 of whom shall be from the residential construction industry, nominated by the Utah Home Builders
 145 Association, and one of whom shall be from the real estate industry, nominated by the Utah
 146 Association of Realtors.

147 (2) (a) Each commission member shall be appointed by the governor with the advice and
 148 consent of the Senate.

149 (b) The governor shall select three of the six members under Subsection (1)(b) from a list
 150 of names provided by the Utah League of Cities and Towns, and shall select the remaining three
 151 from a list of names provided by the Utah Association of Counties.

152 (c) Two of the persons appointed under Subsection (1) shall be from the agricultural
 153 community from a list of names provided by ~~h~~ [a] ~~h~~ Utah farm ~~h~~ [organization] **ORGANIZATIONS ~~h~~ .**

154 (3) (a) The term of office of each member is four years, except that the governor shall
155 appoint one of the persons at the state government level, ~~h [two]~~ **THREE** h of the persons at the local
156 government level, and two of the persons under Subsection (1)(c) to an initial two-year term.

157 (b) No member of the commission may serve more than two consecutive four-year terms.

158 (4) Each mid-term vacancy shall be filled for the unexpired term in the same manner as
159 an appointment under Subsection (2).

160 (5) Commission members shall elect a chair from their number and establish rules for the
161 organization and operation of the commission.

162 (6) (a) No member may receive compensation or benefits for the member's service on the
163 commission.

164 (b) (i) A member who is not a government officer or employee may be reimbursed for
165 reasonable expenses incurred in the performance of the member's official duties at the rates
166 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

167 (ii) A member who is a government officer or employee and who does not receive
168 expenses from the member's agency may be reimbursed for reasonable expenses incurred in the
169 performance of the member's official duties at the rates established by the Division of Finance
170 under Sections 63A-3-106 and 63A-3-107.

171 (c) A member may decline to be reimbursed for reasonable expenses incurred in the
172 performance of the member's official duties.

173 (d) A member is not required to give bond for the performance of official duties.

174 (7) Staff services to the commission:

175 (a) shall be provided by OPB; and

176 (b) may be provided by local entities through the Utah Association of Counties and the
177 Utah League of Cities and Towns, with funds approved by the commission from those identified
178 as available to local entities under Subsection 11-38-203(1).

179 Section 5. Section **11-38-202** is enacted to read:

180 **11-38-202. Commission duties and powers -- No regulatory authority.**

181 (1) The commission shall:

182 (a) make recommendations to the Legislature on how to define more specifically quality
183 growth areas within the general guidelines provided to the commission by the Legislature;

184 (b) advise the Legislature on growth management issues;

- 185 (c) make recommendations to the Legislature on refinements to this chapter;
- 186 (d) conduct a review in 2002 and each year thereafter to determine progress statewide on
- 187 accomplishing the purposes of this chapter, and give a report of each review to the Political
- 188 Subdivisions Interim Committee of the Legislature by November 30 of the year of the review;
- 189 (e) administer the fund as provided in this chapter;
- 190 (f) assist as many local entities as possible, at their request, to identify principles of growth
- 191 that the local entity may consider implementing to help achieve the highest possible quality of
- 192 growth for that entity;
- 193 (g) fulfill other responsibilities imposed on the commission by the Legislature; and
- 194 (h) fulfill all other duties imposed on the commission by this chapter.
- 195 (2) The commission may sell, lease, or otherwise dispose of equipment or personal
- 196 property belonging to the fund, the proceeds from which shall return to the fund.
- 197 (3) The commission may not exercise any regulatory authority.

Section 6. Section **11-38-203** is enacted to read:

11-38-203. Commission may provide assistance to local entities.

The commission may:

- 201 (1) from funds appropriated to OPB by the Legislature for this purpose, grant money to
- 202 local entities to help them obtain the technical assistance they need to:
- 203 (a) conduct workshops or public hearings or use other similar methods to obtain public
- 204 input and participation in the process of identifying for that entity the principles of quality growth
- 205 referred to in Subsection 11-38-202(1)(f);
- 206 (b) identify where and how quality growth areas could be established within the local
- 207 entity; and
- 208 (c) develop or modify the local entity's general plan to incorporate and implement the
- 209 principles of quality growth developed by the local entity and to establish quality growth areas; and
- 210 (2) require each local entity to which the commission grants money under Subsection (1)
- 211 to report to the commission, in a format and upon a timetable determined by the commission, on
- 212 that local entity's process of developing quality growth principles and on the quality growth
- 213 principles developed by that local entity.

Section 7. Section **11-38-301** is enacted to read:

Part 3. LeRay McAllister Fund

216 **11-38-301. LeRay McAllister Critical Land Conservation Fund.**217 (1) There is created the LeRay McAllister Critical Land Conservation Fund, consisting of:218 (a) money appropriated or otherwise made available by the Legislature;219 (b) contributions of money, property, or equipment from federal agencies, political
220 subdivisions of the state, persons, or corporations;221 (c) proceeds that a department chooses to place into the fund from the sale of surplus land
222 under Subsection (2); and223 (d) funds from the State Building Energy Efficiency Program.224 (2) The Department of Administrative Services, the Department of Agriculture and Food,
225 the Department of Natural Resources, and the Department of Transportation may place proceeds
226 from the sale of surplus land into the fund.226a **h (3) THE TOTAL AMOUNT OF MONEY IN THE FUND MAY NOT EXCEED \$6,000,000. h**227 Section 8. Section **11-38-302** is enacted to read:228 **11-38-302. Use of money in fund -- Criteria -- Administration.**229 (1) Subject to Subsection (2), the commission may authorize the use of money in the fund,
230 by grant or loan, to:231 (a) a local entity;232 (b) the Department of Natural Resources created under Section 63-34-3;233 (c) the Department of Agriculture and Food created under Section 4-2-1; or234 (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3) of
235 the Internal Revenue Code.236 (2) (a) Each disbursement the commission makes from the fund, whether by loan or grant,
237 shall be subject to prior approval by the Executive Appropriations Committee of the Legislature.238 (b) The money in the fund shall be used for preserving h **OR RESTORING** h open land and
238a agricultural land.239 (c) (i) Except as provided in Subsection (2)(c)(ii), money from the fund may not be used
240 to purchase a fee interest in real property in order to preserve open land or agricultural land, but
241 may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation
242 Easement Act, or to fund similar methods to preserve open land or agricultural land.243 (ii) Notwithstanding Subsection (2)(c)(i), money from the fund may be used to purchase
244 a fee interest in real property to preserve open land or agricultural land if h [f] :245 (A) [f] h the parcel to be purchased is no more than 20 acres in size h [f] ; and [f] [-] h246 h [f] (B) h **WITH RESPECT TO A PARCEL PURCHASED IN A COUNTY IN WHICH OVER 50%**
246a **OF THE LAND AREA IS PUBLICLY OWNED, h real property roughly equivalent in size h AND**
246b **LOCATED WITHIN THAT COUNTY h is contemporaneously transferred to private [f] h**

247 h [f] ownership from the governmental entity that purchased the fee interest in real property. [g] h
 247a (iii) EMINENT DOMAIN MAY NOT BE USED OR THREATENED IN CONNECTION WITH ANY
 247b PURCHASE USING MONEY FROM THE FUND.

247c (iv) A PARCEL OF LAND LARGER THAN 20 ACRES IN SIZE MAY NOT BE DIVIDED INTO
 247d SEPARATE PARCELS SMALLER THAN 20 ACRES EACH TO MEET THE REQUIREMENT OF
 247e SUBSECTION (2)(c)(ii). h

248 (d) A county, city, town, department, or organization under Subsection (1) may not receive
 249 money from the fund unless it provides matching funds equal to or greater than the amount of
 250 money received from the fund.

251 (e) In loaning or granting money from the fund, the commission may impose conditions
 252 on the recipient as to how the money is to be spent.

253 (3) (a) If money from the fund is distributed in the form of a loan, the commission may
 254 require interest to be paid and shall establish other terms of each loan, including a repayment
 255 schedule.

256 (b) Each payment on a loan from the fund shall be returned to the fund and shall be applied
 257 first to interest and then to principal.

258 (4) In determining the amount and type of financial assistance to provide an entity,
 259 department, or organization under Subsection (1), the commission:

260 (a) if the assistance is in the form of a loan, shall consider the borrower's ability to repay
 261 the loan; and

262 (b) shall consider:

263 (i) the nature and amount of open land and agricultural land proposed to be preserved;

264 (ii) the qualities of the open land and agricultural land proposed to be preserved;

265 (iii) the cost effectiveness of the project to preserve open land or agricultural land;

266 (iv) the funds available;

267 (v) the number of actual and potential applications for financial assistance and the amount
 268 of money sought by those applications;

269 (vi) the open land preservation plan of the local entity where the project is located and the
 270 priority placed on the project by that local entity;

271 (vii) the effects on housing affordability and diversity; and

272 (viii) whether the project protects against the loss of private property ownership.

273 (5) If a county, city, town, department, or organization under Subsection (1) seeks money
 274 from the fund for a project whose purpose is to protect critical watershed, the commission shall
 275 require that the needs and quality of that project be verified by the state engineer.

276 (6) Commission expenses and the costs of administering loans from the fund, as provided
 277 in Subsection (7), shall be paid from the fund.

278 (7) (a) The Division of Finance shall be responsible for the care, custody, safekeeping,
279 collection, and accounting for loans issued by the commission as provided in Section 63-65-4.

280 (b) The Division of Finance may charge to the fund the administrative costs incurred in
281 discharging the responsibilities imposed by Subsection (7)(a).

282 (8) The state treasurer shall invest all monies deposited into the fund, and all interest from
283 investing the monies shall accrue to the fund.

284 Section 9. Section **63-9-67** is enacted to read:

285 **ARTICLE 11**

286 **STATE BUILDING ENERGY EFFICIENCY PROGRAM**

287 **63-9-67. State Building Energy Efficiency Program.**

288 (1) For purposes of this section:

289 (a) "Energy efficiency measures" means actions taken or initiated by a state agency that
290 reduce the state agency's energy use, increase the state agency's energy efficiency, or lower the
291 costs of energy to the state agency.

292 (b) "Energy savings agreement" means an agreement entered into by a state agency
293 participating in the State Building Energy Efficiency Program whereby the state agency
294 implements energy efficiency measures and finances the costs associated with implementation of
295 energy efficiency measures from the stream of expected savings in energy costs resulting from
296 implementation of the energy efficiency measures.

297 (c) "Fund" has the meaning as defined in Section 11-38-102.

298 (d) "Net savings" means savings in energy costs that a state agency realizes after taking
299 into account the costs of implementing the energy efficiency measures or conservation activities
300 that produce the savings.

301 (e) "State agency" has the meaning as defined in Section 11-38-102.

302 (f) "State Building Energy Efficiency Program" means a program that the governor may
303 establish by executive order recommending to or requiring state agencies to implement energy
304 efficiency measures.

305 ~~h [(2) Subject to Subsection (3) and notwithstanding Subsections 63-38-2(2)(c) and (f), each~~
306 ~~state agency realizing net savings from implementing an energy efficiency project, participating~~
307 ~~in the State Building Energy Efficiency Program, or implementing energy conservation activities~~
308 ~~shall transfer into the fund no less than 50% of those net savings.]~~

308a **(2)(a) THE PERSON OR AGENCY OVERSEEING THE STATE BUILDING ENERGY**

308b EFFICIENCY PROGRAM, AS DESIGNATED BY THE GOVERNOR IN AN EXECUTIVE ORDER
308c ESTABLISHING THE PROGRAM, SHALL SUBMIT A REPORT ANNUALLY TO THE CAPITAL
308d FACILITIES AND ADMINISTRATIVE SERVICES APPROPRIATIONS SUBCOMMITTEE OF THE
308e LEGISLATURE.
308f (b) EACH REPORT UNDER SUBSECTION (2)(a) SHALL:
308g (i) SPECIFY THE AMOUNT THAT REPRESENTS 50% OF THE NET SAVINGS REALIZED BY
308h ALL STATE AGENCIES FROM PARTICIPATING IN THE STATE BUILDING ENERGY EFFICIENCY
308i PROGRAM; AND
308j (ii) DETAIL ENERGY PROGRAMS AND STRATEGIES THAT WERE UNDERTAKEN TO
308k IMPROVE THE ENERGY EFFICIENCY OF STATE AGENCIES AND THE ENERGY SAVINGS ACHIEVED.
308l (c) THE AMOUNT SPECIFIED UNDER SUBSECTION (2)(b)(i) MAY BE PLACED INTO THE
308m FUND, SUBJECT TO LEGISLATIVE APPROPRIATION DURING THE GENERAL SESSION FOLLOWING
308n SUBMISSION OF THE REPORT UNDER SUBSECTION (2)(a). ĥ

309 (3) Notwithstanding Subsection (2), a state agency may fulfill the terms of an ^h ~~energy~~
 310 ~~savings~~ ^h agreement entered into before the effective date of this section providing for the state
 311 agency's payment for energy efficiency measures.

312 (4) A state agency may enter into an energy savings agreement for a term of up to 25 years.

313 ^h ~~[(5) The State Building Energy Efficiency Program shall file an annual program report to~~
 314 ~~the Capital Facilities and Administrative Services Appropriations Subcommittee of the Legislature~~
 315 ~~detailing energy programs and strategies that were undertaken to improve the energy efficiency of~~
 316 ~~state agencies and the energy savings achieved.]~~ ^h

317 Section 10. Section **63-38-3** is amended to read:

318 **63-38-3. Appropriations governed by chapter -- Restrictions on expenditures --**
 319 **Transfer of funds.**

320 (1) All moneys appropriated by the Legislature are appropriated upon the terms and
 321 conditions set forth in this chapter, and any department, agency, or institution, except the
 322 Legislature and its committees, or where specifically exempted by the appropriating act, which
 323 accepts moneys appropriated by the Legislature, does so subject to this chapter.

324 (2) (a) In providing that certain appropriations are to be expended in accordance with a
 325 schedule or other restrictions, if any, set forth after each appropriations item, it is the intent of the
 326 Legislature to limit the amount of money to be expended from each appropriations item for certain
 327 specified purposes.

328 (b) Each schedule:

329 (i) is a restriction or limitation upon the expenditure of the respective appropriation made;
 330 (ii) does not itself appropriate any money; and
 331 (iii) is not itself an item of appropriation.

332 (c) ~~[Am]~~ Except as provided in Subsections 63-9-67(2) and 63-38-18(2), an appropriation
 333 or any surplus of any appropriation may not be diverted from any department, agency, institution,
 334 or division to any other department, agency, institution, or division.

335 (d) The money appropriated subject to a schedule or restriction may be used only for the
 336 purposes authorized.

337 (e) (i) If any department, agency, or institution for which money is appropriated requests
 338 the transfer of moneys appropriated to it from one purpose or function to another purpose or
 339 function within an item of appropriation, the state budget officer shall require a new work program

340 to be submitted for the fiscal year involved setting forth the purpose and necessity for such
341 transfer.

342 (ii) The budget officer and fiscal officer shall review the proposed change and submit their
343 findings and recommendations to the governor, who may permit the transfer.

344 (iii) The state fiscal officer shall notify the Legislature through the Office of the Legislative
345 Fiscal Analyst of action taken by the governor.

346 (f) [~~Monies~~] Except as provided in Subsections 63-9-67(2) and 63-38-18(2), monies may
347 not be transferred from one item of appropriation to any other item of appropriation.

348 (3) This section does not apply to the Investigation Account of the Water Resources
349 Construction Fund. The investigation account shall continue to be governed by Section 73-10-8.

350 Section 11. Section **63-38-8.1** is amended to read:

351 **63-38-8.1. Nonlapsing authority.**

352 (1) As used in this section:

353 (a) (i) "Agency" means each department, commission, board, council, agency, institution,
354 officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau,
355 panel, or other administrative unit of the state.

356 (ii) "Agency" does not include those entities whose unappropriated and unencumbered
357 balances are made nonlapsing by the operation of Subsection 63-38-8(2).

358 (b) "Appropriation balance" means the unexpended and unencumbered balance of a line
359 item appropriation made by the Legislature to an agency that exists at the end of a fiscal year.

360 (c) "Nonlapsing" means that an agency's appropriation balance is not closed out to the
361 appropriate fund at the end of a fiscal year as required by Section 63-38-8.

362 (d) "One-time project" means a project or program that can be completed with the
363 appropriation balance and includes such items as employee incentive awards and bonuses,
364 purchase of equipment, and one-time training.

365 (e) "One-time project's list" means:

366 (i) a prioritized list of one-time projects, upon which an agency would like to spend any
367 appropriation balance; and

368 (ii) for each project, the maximum amount the agency is estimating for the project.

369 (f) "Program" means a service provided by an agency to members of the public, other
370 agencies, or to employees of the agency.

371 (2) Notwithstanding the requirements of Section 63-38-8, an agency may[;]:
372 (a) by following the procedures and requirements of this section, retain and expend any
373 appropriation balance[-]; and
374 (b) comply with the requirements of Subsections 63-9-67(2) and 63-38-18(2).
375 (3) (a) Each agency that wishes to preserve any part or all of its appropriation balance as
376 nonlapsing shall include a one-time project's list as part of the budget request that it submits to the
377 governor and the Legislature at the annual general session of the Legislature immediately before
378 the end of the fiscal year in which the agency may have an appropriation balance.
379 (b) An agency may not include a proposed expenditure on its one-time project's list if:
380 (i) the expenditure creates a new program;
381 (ii) the expenditure enhances the level of an existing program; or
382 (iii) the expenditure will require a legislative appropriation in the next fiscal year.
383 (c) The governor:
384 (i) may approve some or all of the items from an agency's one-time project's list; and
385 (ii) shall identify and prioritize any approved one-time projects in the budget that he
386 submits to the Legislature.
387 (4) The Legislature:
388 (a) may approve some or all of the specific items from an agency's one-time project's list
389 as authorized expenditures of an agency's appropriation balance;
390 (b) shall identify any authorized one-time projects in the appropriate line item
391 appropriation; and
392 (c) may prioritize one-time projects in intent language.
393 (5) The Legislative Fiscal Analyst shall:
394 (a) conduct a study of the nonlapsing authority granted in this section and its effects on the
395 budget, the budget process, the source of or reason for the appropriation balance, and the
396 legislative appropriations power; and
397 (b) report the analysis and any recommendations to the Legislative Management
398 Committee and Interim Appropriations Committee by October 1, 1996.

399 Section 12. Section **63-38-18** is enacted to read:
400 **63-38-18. Refund for electrical service to be deposited into the LeRay McAllister**
401 **Fund.**

402 (1) For purposes of this section:

403 (a) the definitions of Section 11-38-102 apply; and

404 (b) "Refund" means the return of an amount of money to a state agency from a provider
405 of electrical service under an order of the Utah Public Service Commission requiring a retroactive
406 rate reduction, whether the return is in the form of a direct cash payment, an offset or credit against
407 future charges for electrical service, or any other form.

408 (2) Notwithstanding Subsections 63-38-3(2)(c) and (f), each state agency shall, as directed
409 by the Division of Finance, deposit into the fund the state's share of each refund.

410 Section 13. Section **63A-1-112** is amended to read:

411 **63A-1-112. Certificates of participation -- Legislative approval required --**

412 **Definition.**

413 (1) (a) Certificates of participation for either capital facilities or capital improvements may
414 not be issued by the department, its subdivisions, or any other state agency after July 1, 1985,
415 without prior legislative approval.

416 (b) Nothing in this section affects the rights and obligations surrounding certificates of
417 participation that were issued prior to July 1, 1985.

418 (2) (a) As used in this section, "certificate of participation" means an instrument that acts
419 as evidence of the certificate holder's undivided interest in property being lease-purchased, the
420 payment on which is subject to appropriation by the Legislature.

421 (b) (i) For purposes of this Subsection (2)(b), "energy savings agreement" has the meaning
422 as defined in Section 63-9-67.

423 (ii) "Certificate of participation" does not include an energy savings agreement.

424 Section 14. **Additional duties of Quality Growth Commission -- Legislative intent on**
425 **quality growth areas.**

426 (1) For purposes of this section, the definitions of Section 11-38-102 apply.

427 (2) In addition to the duties imposed by Section 11-38-202, the Quality Growth
428 Commission, established in Section 11-38-201, shall:

429 (a) consider the factors identified in Subsection (5) and input received from local entities
430 under Subsection 11-38-203(2) and from any other useful source of relevant information and
431 formulate quality growth principles that the Legislature may consider implementing in further
432 legislation affecting Title 11, Chapter 38, Quality Growth Act;

433 (b) develop proposals for or drafts of legislation to implement quality growth principles
 434 and to define specifically the features of quality growth areas, after considering the issues outlined
 435 in Subsection (3), and to provide for their establishment;

436 (c) consider ~~h~~ [other] ALL ~~h~~ state sources of revenue ~~h~~ [that could be added to the list of
 436a funding
 437 sources under Subsection (4)(a)] ~~h~~ for which quality growth areas ~~h~~ [will] COULD ~~h~~ be given
 437a priority and make a
 438 recommendation to the Legislature as to ~~h~~ THOSE ~~h~~ funding sources it should consider ~~h~~ [adding
 438a to the list] ~~h~~ ;

439 (d) consider other potential sources of money for the fund to pay for the preservation ~~h~~ OR
 439a RESTORATION ~~h~~ of
 440 agricultural land and open land and make a recommendation to the Legislature as to other sources
 441 of money it should consider;

442 (e) develop and recommend to the Legislature criteria and standards that should apply in
 443 determining how distributions of money from the fund should be prioritized; ~~h~~ [and]

443a (f) CONSIDER AND MAKE A RECOMMENDATION TO THE LEGISLATURE AS TO WHETHER
 443b THE 20 ACRE FIGURE IN SUBSECTION ~~h~~ [11-38-202(2)(e)(ii)] 11-38-302(2)(c)(ii) ~~h~~ SHOULD BE
 443b1 ADJUSTED AND, IF SO, WHAT
 443c THAT FIGURE SHOULD BE;

443d (g) MAKE RECOMMENDATIONS TO THE LEGISLATURE AS TO HOW TO IMPLEMENT THE
 443e INTENT OF SUBSECTION (4)(a) OF THIS SECTION; ~~h~~ [AND]

443f (h) CONSIDER AND MAKE A RECOMMENDATION TO THE LEGISLATURE AS TO WHETHER
 443g THE PURPOSES FOR WHICH MONEY FROM THE FUND MAY BE USED SHOULD BE EXPANDED TO
 443h INCLUDE EXPENDITURES IN QUALITY GROWTH AREAS TO FURTHER THE PURPOSES OF QUALITY
 443i GROWTH AREAS AND TO IMPLEMENT QUALITY GROWTH PRINCIPLES; AND ~~h~~ ~~h~~

444 ~~h~~ [(f)] ~~h~~ [(h)] (i) ~~h~~ ~~h~~ report to the Political Subdivisions Interim Committee of the
 444a Legislature by
 444a November

445 30, 1999, on the commission's proposals and recommendations under Subsections (2)(a), (b), (c),
 446 (d), ~~h~~ [and] ~~h~~ (e) ~~h~~ , (f), ~~h~~ [AND] ~~h~~ (g) ~~h~~ , AND (h) ~~h~~ ~~h~~ .

447 (3) (a) It is the intent of the Legislature to consider the recommendations of the Quality
 448 Growth Commission and to consider defining the features of quality growth areas and providing
 449 for their establishment.

450 (b) In recommending a more specific definition for a quality growth area, the commission
 451 shall consider:

452 (i) whether the area should have adequate existing infrastructure or ready access to
 453 additional infrastructure to support additional development;

454 (ii) whether affordable housing should be integrated into the housing mix;

455 (iii) whether the area should have potential for:

- 456 (A) infill development;
457 (B) the redevelopment of existing but obsolete or dilapidated developed areas; or
458 (C) the rehabilitation of Brownfield sites;
459 (iv) whether the area should achieve an average residential density that is greater than the
460 density of existing developed areas in which the quality growth area is located; and
461 (v) whether the local entity should be willing to integrate the conservation of open land
462 and agricultural land.
463 (4) (a) It is the intent of the Legislature that future legislation providing for the

464 establishment of quality growth areas will:

465 (i) include provisions that:

466 (A) except as provided in Subsection (4)(a)(ii), give priority to quality growth areas with
 467 respect to accessing ~~h~~ [funds from:] STATE SOURCES OF REVENUE SPECIFIED BY THE
 467a LEGISLATURE AFTER CONSIDERING THE RECOMMENDATIONS OF THE COMMISSION UNDER
 467b SUBSECTION (2)(c); ~~h~~

468 ~~h [(I) the Water Resources Cities Water Loan Fund under Section 73-10-22;~~

469 ~~(II) the Drinking Water Board Loan Program under Sections 73-10b-6, 73-10g-5, and~~
 470 ~~73-10h-5;~~

471 ~~(III) the Water Quality Assistance Program under Sections 73-10b-5, 73-10g-4, and~~
 472 ~~73-10h-4; and~~

473 ~~(IV) the Olene Walker Housing Trust Fund created under Section 9-4-702;]~~ ~~h~~

474 (B) specify how 50% of any future increases in the state's private activity bond volume cap
 475 under Title 9, Chapter 4, Part 5, Bond Volume Cap Allocation, may be used for development that
 476 occurs within a quality growth area; and

477 (C) ~~h~~ [require] RECOMMEND ~~h~~ all state agencies, departments, boards, and commissions
 477a which administer and

478 disburse funds or develop infrastructure at the state level to adhere to quality growth principles to
 479 be formulated by the commission and adopted by the Legislature, and comply with other
 480 provisions of Title 11, Chapter 38, Quality Growth Act; and

481 (ii) not place rural communities at a disadvantage, with respect to accessing funds under
 482 Subsection (4)(a)(i)(A), for not having a quality growth area.

483 (b) For purposes of Subsection (4)(a)(ii), "rural communities" means:

484 (i) each county with a population under 25,000, except a county included within the
 485 Wasatch Front and Mountainland multicounty regions established under an executive order issued
 486 by the governor on May 17, 1970;

487 (ii) each city and town in a county described in Subsection (4)(b)(i); and

488 (iii) each town and each city with a population under 5,000 in a county of the third, fourth,
 489 fifth, or sixth class, except a county included within the Wasatch Front and Mountainland
 490 multicounty regions established under an executive order issued by the governor on May 17, 1970.

491 (5) Issues the commission shall consider in formulating quality growth principles for the
 492 Legislature to consider include:

493 (a) how to ensure that the rights of private property owners are protected;

494 (b) how to implement the policy of no net decrease in the quantity or value of private real

495 property available to generate property tax revenues, while recognizing that at times some
496 additional public land will be needed and at other times public land that is not critical can be sold,
497 exchanged, or converted to private ownership to accommodate growth and development;

498 (c) how to implement the concept of local control over land use and development decisions
499 but with state leadership and coordination;

500 (d) how to implement a balance of free market and public sector planning solutions to
501 growth management problems;

502 (e) whether to preserve agricultural land and open land and, if so, how;

503 (f) whether to encourage infill development and the development of Brownfield sites and,
504 if so, how;

505 (g) whether to provide affordable housing for all economic segments of the state and, if
506 so, how;

507 (h) whether to encourage a mix of residential densities and housing types and, if so, how;

508 (i) whether to encourage the preservation or enhancement of existing housing stock and,
509 if so, how;

510 (j) how to encourage voluntary cooperation among local entities and other providers of
511 public services;

512 (k) how to encourage voluntary partnerships with the private sector;

513 (l) what governmental actions affect the free market system and the measures that should
514 be taken to minimize that effect;

515 (m) whether to encourage development in urban areas where adequate public facilities and
516 services already exist and, if so, how;

517 (n) whether quality growth areas should be located exclusively or primarily within
518 municipalities;

519 (o) whether development should be encouraged within municipalities; and

520 (p) whether barriers to quality growth exist in state statutes.

521 **Section 15. Transition of LeRay McAllister Fund.**

522 The LeRay McAllister Critical Land Conservation Revolving Loan Fund, established in
523 Chapter 323, Laws of Utah 1998, is reestablished as the LeRay McAllister Critical Land
524 Conservation Fund under Section 11-38-301, and all assets and liabilities of the LeRay McAllister
525 Critical Land Conservation Revolving Loan Fund are assets and liabilities of the LeRay McAllister

526 Critical Land Conservation Fund.

527 Section 16. **Repealer.**

528 This act repeals:

529 Section 11-28-101, **Definitions.**

530 Section 11-28-102, **Critical Land Conservation Committee.**

531 Section 11-28-103, **LeRay McAllister Critical Land Conservation Revolving Loan**

532 **Fund.**

533 Section 11-28-104, **Use of money in fund -- Criteria -- Repayment terms.**

534 Section 11-28-105, **Loan limitations.**

535 Section 11-28-106, **Division of Finance responsible for administration of loans.**

536 Section 11-28-107, **State treasurer shall invest monies.**

537 Section 11-28-108, **Committee authorized to dispose of property.**

538 Section 63-9-64, **Definitions.**

539 Section 63-9-65, **Energy consumption reporting requirements -- State energy**

540 **management plans.**

541 Section 17. **Appropriation.**

542 Except as provided in H.B. 4, Appropriations Coordination Act, there is appropriated
543 \$250,000 from the General Fund for fiscal year 1999-2000 to the Governor's Office of Planning
544 and Budget, established under Section 63-38-1.4, for the purposes set forth in Section 11-38-203.

545 Section 18. **Effective date.**

546 If approved by two-thirds of all the members elected to each house, this act takes effect
547 upon approval by the governor, or the day following the constitutional time limit of Utah
548 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the
549 date of veto override.