

1                                   **QUALITY GROWTH ACT OF 1999**

2                                   1999 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Sponsor: Kevin S. Garn**

5 Susan J. Koehn

6 AN ACT RELATING TO CITIES, TOWNS, AND LOCAL TAXING DISTRICTS;  
7 ESTABLISHING A QUALITY GROWTH COMMISSION; PROVIDING DUTIES AND  
8 POWERS OF THE COMMISSION; REESTABLISHING THE LERAY MCALLISTER  
9 CRITICAL LAND CONSERVATION FUND AND PROVIDING FOR ITS ADMINISTRATION;  
10 EXPRESSING LEGISLATIVE INTENT ON QUALITY GROWTH AREAS; RESERVING  
11 PART OF FUTURE INCREASES IN THE PRIVATE ACTIVITY BOND VOLUME CAP FOR  
12 CERTAIN PURPOSES; PROVIDING FUNDING SOURCES FOR THE LERAY MCALLISTER  
13 FUND; PROVIDING FOR THE ESTABLISHMENT OF A STATE BUILDING ENERGY  
14 EFFICIENCY PROGRAM, WITH SOME OF THE ENERGY SAVINGS FUNDS TO GO TO  
15 THE LERAY MCALLISTER FUND; REPEALING AN EXISTING ENERGY EFFICIENCY  
16 PROGRAM; PROVIDING EXCEPTIONS TO CERTAIN BUDGETARY PROCEDURES IN  
17 CERTAIN CASES; APPROPRIATING \$250,000 FROM THE GENERAL FUND FOR  
18 TECHNICAL ASSISTANCE FOR LOCAL ENTITIES; MAKING TECHNICAL AND  
19 CONFORMING CHANGES; AND PROVIDING AN EFFECTIVE DATE.

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

21 AMENDS:

22           **9-4-505**, as last amended by Chapter 192, Laws of Utah 1997

23           **63-38-3**, as last amended by Chapter 313, Laws of Utah 1994

24           **63-38-8.1**, as enacted by Chapter 76, Laws of Utah 1994

25           **63A-1-112**, as renumbered and amended by Chapter 212, Laws of Utah 1993

26 ENACTS:

27           **11-38-101**, Utah Code Annotated 1953

- 28           **11-38-102**, Utah Code Annotated 1953
- 29           **11-38-201**, Utah Code Annotated 1953
- 30           **11-38-202**, Utah Code Annotated 1953
- 31           **11-38-203**, Utah Code Annotated 1953
- 32           **11-38-301**, Utah Code Annotated 1953
- 33           **11-38-302**, Utah Code Annotated 1953
- 34           **63-9-67**, Utah Code Annotated 1953
- 35           **63-38-18**, Utah Code Annotated 1953

36 REPEALS:

- 37           **11-28-101**, as enacted by Chapter 323, Laws of Utah 1998
- 38           **11-28-102**, as enacted by Chapter 323, Laws of Utah 1998
- 39           **11-28-103**, as enacted by Chapter 323, Laws of Utah 1998
- 40           **11-28-104**, as enacted by Chapter 323, Laws of Utah 1998
- 41           **11-28-105**, as enacted by Chapter 323, Laws of Utah 1998
- 42           **11-28-106**, as enacted by Chapter 323, Laws of Utah 1998
- 43           **11-28-107**, as enacted by Chapter 323, Laws of Utah 1998
- 44           **11-28-108**, as enacted by Chapter 323, Laws of Utah 1998
- 45           **63-9-64**, as last amended by Chapter 212, Laws of Utah 1993
- 46           **63-9-65**, as last amended by Chapter 85, Laws of Utah 1986

47 This act enacts uncodified material.

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

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

50           **9-4-505. Allocation of volume cap.**

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

53           (b) Fifty percent of each increase in the volume cap that occurs after the effective date of  
54 this Subsection (1)(b) shall be reserved for use in development that occurs in a quality growth area.

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

58           (3) The board of review shall establish criteria for making allocations of volume cap that

59 are consistent with the purposes of the code and this part. In making an allocation of volume cap  
60 the board of review shall consider the following:

- 61 (a) the principal amount of the bonds proposed to be issued;
- 62 (b) the nature and the location of the project or the type of program;
- 63 (c) the likelihood that the bonds will be sold and the timeframe of bond issuance;
- 64 (d) whether the project or program could obtain adequate financing without an allocation

65 of volume cap;

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

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

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

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

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

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

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

79 **CHAPTER 38. QUALITY GROWTH ACT**

80 **Part 1. General Provisions**

81 **11-38-101. Title.**

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

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

84 **11-38-102. Definitions.**

85 As used in this chapter:

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

89 (2) "Agricultural land" has the same meaning as "land in agricultural use" under Section

90 59-2-502.

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

94 (4) "Commission" means the Quality Growth Commission established in Section  
95 11-38-201.

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

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

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

102 (8) "OPB" means the governor's Office of Planning and Budget established under Section  
103 63-38-1.4.

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

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

106 (b) used for:

107 (i) wildlife habitat;

108 (ii) cultural or recreational use;

109 (iii) water source protection; or

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

112 (10) "State agency" includes each executive branch department, agency, board, or  
113 commission and each state educational institution.

114 (11) "State Building Energy Efficiency Program" has the meaning as defined in Section  
115 63-9-67.

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

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

121 **Part 2. Quality Growth Commission**122 **11-38-201. Quality Growth Commission -- Term of office -- Vacancy -- Organization**  
123 **-- Expenses -- Staff.**124 (1) There is created a Quality Growth Commission consisting of:125 (a) two persons at the state government level;126 (b) six persons at the local government level; and127 (c) five persons from the profit and nonprofit private sector, no more than three of whom128 may be from the same political party and one of whom shall be from the residential construction129 industry and one of whom shall be from the real estate industry.130 (2) (a) Each commission member shall be appointed by the governor with the advice and  
131 consent of the Senate.132 (b) The governor shall select three of the six members under Subsection (1)(b) from a list  
133 of names provided by the Utah League of Cities and Towns, and shall select the remaining three  
134 from a list of names provided by the Utah Association of Counties.135 (c) Two of the persons appointed under Subsection (1) shall be from the agricultural  
136 community.137 (3) (a) The term of office of each member is four years, except that the governor shall  
138 appoint one of the persons at the state government level, three of the persons at the local  
139 government level, and two of the persons from the private sector to an initial two-year term.140 (b) No member of the commission may serve more than two consecutive four-year terms.141 (4) Each mid-term vacancy shall be filled for the unexpired term in the same manner as  
142 an appointment under Subsection (2).143 (5) Commission members shall elect a chair from their number and establish rules for the  
144 organization and operation of the commission.145 (6) (a) No member may receive compensation or benefits for the member's service on the  
146 commission.147 (b) (i) A member who is not a government officer or employee may be reimbursed for  
148 reasonable expenses incurred in the performance of the member's official duties at the rates  
149 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.150 (ii) A member who is a government officer or employee and who does not receive  
151 expenses from the member's agency may be reimbursed for reasonable expenses incurred in the

152 performance of the member's official duties at the rates established by the Division of Finance  
153 under Sections 63A-3-106 and 63A-3-107.

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

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

157 (7) OPB shall provide staff services to the commission.

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

159 **11-38-202. Commission duties and powers -- No regulatory authority.**

160 (1) The commission shall:

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

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

164 (c) make recommendations to the Legislature on refinements to this chapter;

165 (d) conduct a review in 2002 and each year thereafter to determine progress statewide on  
166 accomplishing the purposes of this chapter, and give a report of each review to the Political  
167 Subdivisions Interim Committee of the Legislature by November 30 of the year of the review;

168 (e) administer the fund as provided in this chapter;

169 (f) assist as many local entities as possible, at their request, to identify principles of growth  
170 that the local entity may consider implementing to help achieve the highest possible quality of  
171 growth for that entity;

172 (g) fulfill other responsibilities imposed on the commission by the Legislature; and

173 (h) fulfill all other duties imposed on the commission by this chapter.

174 (2) The commission may sell, lease, or otherwise dispose of equipment or personal  
175 property belonging to the fund, the proceeds from which shall return to the fund.

176 (3) The commission may not exercise any regulatory authority.

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

178 **11-38-203. Commission may provide assistance to local entities.**

179 The commission may:

180 (1) from funds appropriated to OPB by the Legislature for this purpose, grant money to  
181 local entities to help them obtain the technical assistance they need to:

182 (a) conduct workshops or public hearings or use other similar methods to obtain public

183 input and participation in the process of identifying for that entity the principles of quality growth  
184 referred to in Subsection 11-38-202(1)(e);

185 (b) identify where and how quality growth areas could be established within the local  
186 entity; and

187 (c) develop or modify the local entity's general plan to incorporate and implement the  
188 principles of quality growth developed by the local entity and to establish quality growth areas; and

189 (2) require each local entity to which the commission grants money under Subsection (1)  
190 to report to the commission, in a format and upon a timetable determined by the commission, on  
191 that local entity's process of developing quality growth principles and on the quality growth  
192 principles developed by that local entity.

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

194 **Part 3. LeRay McAllister Fund**

195 **11-38-301. LeRay McAllister Critical Land Conservation Fund.**

196 (1) There is created the LeRay McAllister Critical Land Conservation Fund, consisting of:

197 (a) money appropriated or otherwise made available by the Legislature;

198 (b) contributions of money, property, or equipment from federal agencies, political  
199 subdivisions of the state, persons, or corporations;

200 (c) proceeds that a department chooses to place into the fund from the sale of surplus land  
201 under Subsection (2); and

202 (d) funds from the State Building Energy Efficiency Program.

203 (2) The Department of Administrative Services, the Department of Agriculture and Food,  
204 the Department of Natural Resources, and the Department of Transportation may place proceeds  
205 from the sale of surplus land into the fund.

206 Section 8. Section **11-38-302** is enacted to read:

207 **11-38-302. Use of money in fund -- Criteria -- Administration.**

208 (1) Subject to Subsection (2), the commission may authorize the use of money in the fund,  
209 by grant or loan, to:

210 (a) a local entity;

211 (b) the Department of Natural Resources created under Section 63-34-3;

212 (c) the Department of Agriculture and Food created under Section 4-2-1; and

213 (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3) of

214 the Internal Revenue Code.

215 (2) (a) The money in the fund shall be used for preserving open land and agricultural land.

216 (b) (i) Except as provided in Subsection (2)(b)(ii), money from the fund may not be used

217 to purchase a fee interest in real property in order to preserve open land or agricultural land, but

218 may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation

219 Easement Act, or to fund similar methods to preserve open land or agricultural land.

220 (ii) Notwithstanding Subsection (2)(b)(i), money from the fund may be used to purchase

221 a fee interest in real property to preserve open land or agricultural land if:

222 (A) the parcel to be purchased is no more than 20 acres in size; or

223 (B) real property roughly equivalent in size is contemporaneously transferred to private

224 ownership from the governmental entity that purchased the fee interest in real property.

225 (c) An entity, department, or organization under Subsection (1) may not receive money

226 from the fund unless it provides matching funds equal to or greater than the amount of money

227 received from the fund.

228 (d) In loaning or granting money from the fund, the commission may impose conditions

229 on the recipient as to how the money is to be spent.

230 (3) (a) If money from the fund is distributed in the form of a loan, the commission shall

231 require interest to be paid and shall establish other terms of each loan, including a repayment

232 schedule.

233 (b) Each payment on a loan from the fund shall be returned to the fund and shall be applied

234 first to interest and then to principal.

235 (4) In determining the amount and type of financial assistance to provide an entity,

236 department, or organization under Subsection (1), the commission:

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

238 the loan; and

239 (b) may consider:

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

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

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

243 (iv) the funds available;

244 (v) the number of actual and potential applications for financial assistance, the amount of



245 money sought by those applications, and the nature and amount of open land and agricultural land  
246 they propose to preserve; and

247 (vi) the level of importance that the local entity where the project is located attaches to the  
248 specific open land or agricultural land preservation project seeking funding in comparison with  
249 other such projects.

250 (5) Commission expenses and the costs of administering loans from the fund, as provided  
251 in Subsection (6), shall be paid from the fund.

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

254 (b) The Division of Finance may charge to the fund the administrative costs incurred in  
255 discharging the responsibilities imposed by Subsection (6)(a).

256 (7) The state treasurer shall invest all monies deposited into the fund, and all interest from  
257 investing the monies shall accrue to the fund.

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

259 **ARTICLE 11**

260 **STATE BUILDING ENERGY EFFICIENCY PROGRAM**

261 **63-9-67. State Building Energy Efficiency Program.**

262 (1) For purposes of this section:

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

266 (b) "Energy savings agreement" means an agreement entered into by a state agency  
267 participating in the State Building Energy Efficiency Program whereby the state agency  
268 implements energy efficiency measures and finances the costs associated with implementation of  
269 energy efficiency measures from the stream of expected savings in energy costs resulting from  
270 implementation of the energy efficiency measures.

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

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

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

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

279 (2) Subject to Subsection (3) and notwithstanding Subsections 63-38-2(2)(c) and (f), each  
280 state agency realizing net savings from participation in the State Building Energy Efficiency  
281 Program or realizing net savings from implementing energy conservation activities under Chapter  
282 164, Laws of Utah 1985, as amended, shall transfer into the fund no less than 50% of those net  
283 savings.

284 (3) Notwithstanding Subsection (2), a state agency may fulfill the terms of an energy  
285 savings agreement entered into before the effective date of this section providing for the state  
286 agency's payment for energy efficiency measures.

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

288 (5) The Economic Development and Human Resources Appropriations Subcommittee of  
289 the Legislature shall conduct an annual financial review of the State Building Energy Efficiency  
290 Program and report the results of its review to the Legislature.

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

292 **63-38-3. Appropriations governed by chapter -- Restrictions on expenditures --**  
293 **Transfer of funds.**

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

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

302 (b) Each schedule:

303 (i) is a restriction or limitation upon the expenditure of the respective appropriation made;

304 (ii) does not itself appropriate any money; and

305 (iii) is not itself an item of appropriation.

306 (c) ~~[An]~~ Except as provided in Subsections 63-9-67(2) and 63-38-18(2), an appropriation

307 or any surplus of any appropriation may not be diverted from any department, agency, institution,  
308 or division to any other department, agency, institution, or division.

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

311 (e) (i) If any department, agency, or institution for which money is appropriated requests  
312 the transfer of moneys appropriated to it from one purpose or function to another purpose or  
313 function within an item of appropriation, the state budget officer shall require a new work program  
314 to be submitted for the fiscal year involved setting forth the purpose and necessity for such  
315 transfer.

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

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

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

322 (3) This section does not apply to the Investigation Account of the Water Resources  
323 Construction Fund. The investigation account shall continue to be governed by Section 73-10-8.  
324 Section 11. Section **63-38-8.1** is amended to read:

325 **63-38-8.1. Nonlapsing authority.**

326 (1) As used in this section:

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

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

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

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

336 (d) "One-time project" means a project or program that can be completed with the  
337 appropriation balance and includes such items as employee incentive awards and bonuses,

338 purchase of equipment, and one-time training.

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

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

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

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

345 (2) Notwithstanding the requirements of Section 63-38-8, an agency may[-];

346 (a) by following the procedures and requirements of this section, retain and expend any  
347 appropriation balance[-]; and

348 (b) comply with the requirements of Subsections 63-9-67(2) and 63-38-18(2).

349 (3) (a) Each agency that wishes to preserve any part or all of its appropriation balance as  
350 nonlapsing shall include a one-time project's list as part of the budget request that it submits to the  
351 governor and the Legislature at the annual general session of the Legislature immediately before  
352 the end of the fiscal year in which the agency may have an appropriation balance.

353 (b) An agency may not include a proposed expenditure on its one-time project's list if:

354 (i) the expenditure creates a new program;

355 (ii) the expenditure enhances the level of an existing program; or

356 (iii) the expenditure will require a legislative appropriation in the next fiscal year.

357 (c) The governor:

358 (i) may approve some or all of the items from an agency's one-time project's list; and

359 (ii) shall identify and prioritize any approved one-time projects in the budget that he  
360 submits to the Legislature.

361 (4) The Legislature:

362 (a) may approve some or all of the specific items from an agency's one-time project's list  
363 as authorized expenditures of an agency's appropriation balance;

364 (b) shall identify any authorized one-time projects in the appropriate line item  
365 appropriation; and

366 (c) may prioritize one-time projects in intent language.

367 (5) The Legislative Fiscal Analyst shall:

368 (a) conduct a study of the nonlapsing authority granted in this section and its effects on the

369 budget, the budget process, the source of or reason for the appropriation balance, and the  
370 legislative appropriations power; and

371 (b) report the analysis and any recommendations to the Legislative Management  
372 Committee and Interim Appropriations Committee by October 1, 1996.

373 Section 12. Section **63-38-18** is enacted to read:

374 **63-38-18. Refund for electrical service to be deposited into the LeRay McAllister**  
375 **Fund.**

376 (1) For purposes of this section:

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

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

382 (2) Notwithstanding Subsections 63-38-3(2)(c) and (f), each state agency shall, as directed  
383 by the Division of Finance, transfer to the fund the amount of each refund as the refund is received  
384 by the state agency.

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

386 **63A-1-112. Certificates of participation -- Legislative approval required --**

387 **Definition.**

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

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

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

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

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

399 Section 14. **Additional duties of Quality Growth Commission -- Legislative intent on**

400 **quality growth areas.**

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

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

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

408 (b) develop proposals for or drafts of legislation to implement quality growth principles  
409 and to define more specifically the features of quality growth areas, whose general features are  
410 outlined in Subsection (3), and to provide for their establishment;

411 (c) consider other state sources of revenue that could be added to the list of funding  
412 sources under Subsection (4)(a) for which quality growth areas will be given priority and make a  
413 recommendation to the Legislature as to funding sources it should consider adding to the list;

414 (d) consider other potential sources of money for the fund to pay for the preservation of  
415 agricultural land and open land and make a recommendation to the Legislature as to other sources  
416 of money it should consider;

417 (e) develop and recommend to the Legislature criteria and standards that should apply in  
418 determining how distributions of money from the fund should be prioritized; and

419 (f) report to the Political Subdivisions Interim Committee of the Legislature by November  
420 30, 1999, on the commission's proposals and recommendations under Subsections (2)(a), (b), (c),  
421 (d), and (e).

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

425 (b) General features of a quality growth area that the commission shall consider in  
426 recommending a more specific definition are:

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

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

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

- 431 (A) infill development;  
432 (B) the redevelopment of existing but obsolete or dilapidated developed areas; or  
433 (C) the rehabilitation of Brownfield sites;  
434 (iv) whether the area should achieve an average residential density that is greater than the  
435 density of existing developed areas in which the quality growth area is located; and  
436 (v) whether the local entity should be willing to integrate the conservation of open land  
437 and agricultural land.
- 438 (4) It is the intent of the Legislature that future legislation providing for the establishment  
439 of quality growth areas will:
- 440 (a) include provisions that:
- 441 (i) except as provided in Subsection (4)(b), give priority to quality growth areas with  
442 respect to accessing funds from:
- 443 (A) the Water Resources Construction Fund under Section 73-10-8;  
444 (B) the Water Resources Cities Water Loan Fund under Section 73-10-22;  
445 (C) the Water Resources Conservation and Development Fund under Sections 73-10-24,  
446 73-10b-4, 73-10g-3, and 73-10h-3;
- 447 (D) the Drinking Water Board Loan Program under Sections 73-10b-6, 73-10g-5, and  
448 73-10h-5; and
- 449 (E) the Water Quality Assistance Program under Sections 73-10b-5, 73-10g-4, and  
450 73-10h-4;
- 451 (ii) specify how 50% of any future increases in the state's private activity bond volume cap  
452 under Title 9, Chapter 4, Part 5, Bond Volume Cap Allocation, may be used for development that  
453 occurs within a quality growth area; and
- 454 (iii) require all state agencies, departments, boards, and commissions which administer and  
455 disburse funds or develop infrastructure at the state level to adhere to quality growth principles to  
456 be formulated by the commission and adopted by the Legislature, and comply with other  
457 provisions of Title 11, Chapter 38, Quality Growth Act; and
- 458 (b) not place counties with a population under 25,000, cities and towns in a county with  
459 a population under 25,000, and towns and cities with a population under 5,000 located in a county  
460 of the third, fourth, fifth, or sixth class at a disadvantage, with respect to accessing funds under  
461 Subsection (4)(a)(i), for not having a quality growth area.

- 462           (5) Issues the commission shall consider in formulating quality growth principles for the  
463 Legislature to consider include:
- 464           (a) how to ensure that the rights of private property owners are protected;  
465           (b) how to implement the policy of no net decrease in the quantity or value of private real  
466 property available to generate property tax revenues, while recognizing that at times some  
467 additional public land will be needed and at other times public land that is not critical can be sold,  
468 exchanged, or converted to private ownership to accommodate growth and development;  
469           (c) how to implement the concept of local control over land use and development decisions  
470 but with state leadership and coordination;  
471           (d) how to implement a balance of free market and public sector planning solutions to  
472 growth management problems;  
473           (e) whether to preserve agricultural land and open land and, if so, how;  
474           (f) whether to encourage infill development and the development of Brownfield sites and,  
475 if so, how;  
476           (g) whether to provide affordable housing for all economic segments of the state and, if  
477 so, how;  
478           (h) whether to encourage a mix of residential densities and housing types and, if so, how;  
479           (i) whether to encourage the preservation or enhancement of existing housing stock and,  
480 if so, how;  
481           (j) how to encourage voluntary cooperation among local entities and other providers of  
482 public services;  
483           (k) how to encourage voluntary partnerships with the private sector;  
484           (l) what governmental actions affect the free market system and the measures that should  
485 be taken to minimize that effect;  
486           (m) whether to encourage development in urban areas where adequate public facilities and  
487 services already exist and, if so, how;  
488           (n) whether quality growth areas should be located exclusively or primarily within  
489 municipalities;  
490           (o) whether development should be encouraged within municipalities; and  
491           (p) whether barriers to quality growth exist in state statutes.  
492           **Section 15. Transition of LeRay McAllister Fund.**



493           The LeRay McAllister Critical Land Conservation Revolving Loan Fund, established in  
494 Chapter 323, Laws of Utah 1998, is reestablished as the LeRay McAllister Critical Land  
495 Conservation Fund under Section 11-38-301, and all assets and liabilities of the LeRay McAllister  
496 Critical Land Conservation Revolving Loan Fund are assets and liabilities of the LeRay McAllister  
497 Critical Land Conservation Fund.

498           Section 16. **Repealer.**

499           This act repeals:

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

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

502           Section **11-28-103, LeRay McAllister Critical Land Conservation Revolving Loan**  
503 **Fund.**

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

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

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

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

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

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

510           Section **63-9-65, Energy consumption reporting requirements -- State energy**  
511 **management plans.**

512           Section 17. **Appropriation.**

513           Except as provided in H.B. 4, Appropriations Coordination Act, there is appropriated  
514 \$250,000 from the General Fund for fiscal year 1999-2000 to the Governor's Office of Planning  
515 and Budget, established under Section 63-38-1.4, for the purposes set forth in Section 11-38-203.

516           Section 18. **Effective date.**

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

**Legislative Review Note**

**as of 1-25-99 10:33 AM**

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

**Office of Legislative Research and General Counsel**