

Senator John L. Valentine 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 **57-18-7**, as enacted by Chapter 155, Laws of Utah 1985

37 **63-38-3**, as last amended by Chapter 313, Laws of Utah 1994

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

39 **63A-1-112**, as renumbered and amended by Chapter 212, Laws of Utah 1993

40 ENACTS:

41 **11-38-101**, Utah Code Annotated 1953

42 **11-38-102**, Utah Code Annotated 1953

43 **11-38-201**, Utah Code Annotated 1953

44 **11-38-202**, Utah Code Annotated 1953

45 **11-38-203**, Utah Code Annotated 1953

46 **11-38-301**, Utah Code Annotated 1953

47 **11-38-302**, Utah Code Annotated 1953

48 **11-38-303**, Utah Code Annotated 1953

49 **11-38-304**, Utah Code Annotated 1953

50 **63-9-67**, Utah Code Annotated 1953

51 **63-38-18**, Utah Code Annotated 1953

52 REPEALS:

53 **11-28-101**, as enacted by Chapter 323, Laws of Utah 1998

54 **11-28-102**, as enacted by Chapter 323, Laws of Utah 1998

55 **11-28-103**, as enacted by Chapter 323, Laws of Utah 1998

56 **11-28-104**, as enacted by Chapter 323, Laws of Utah 1998

57 **11-28-105**, as enacted by Chapter 323, Laws of Utah 1998

58 **11-28-106**, as enacted by Chapter 323, Laws of Utah 1998

59 **11-28-107**, as enacted by Chapter 323, Laws of Utah 1998

60 **11-28-108**, as enacted by Chapter 323, Laws of Utah 1998

61 **63-9-64**, as last amended by Chapter 212, Laws of Utah 1993

62 **63-9-65**, as last amended by Chapter 85, Laws of Utah 1986

63 This act enacts uncodified material.

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

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

66 **9-4-505. Allocation of volume cap.**

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

69 (b) The board of review may distribute up to 50% of each increase in the volume cap that
70 occurs after the effective date of this Subsection (1)(b) for use in development that occurs in
71 quality growth areas, depending upon the board's analysis of the relative need for additional
72 volume cap between development in quality growth areas and the allotment accounts under Section
73 9-4-506.

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

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

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

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

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

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

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

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

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

91 (h) if the project is a residential rental project, the degree to which the residential rental

92 project targets lower income populations; and

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

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

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

98 **CHAPTER 38. QUALITY GROWTH ACT**

99 **Part 1. General Provisions**

100 **11-38-101. Title.**

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

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

103 **11-38-102. Definitions.**

104 As used in this chapter:

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

108 (2) "Agricultural land" has the same meaning as "land in agricultural use" under Section
109 59-2-502.

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

113 (4) "Commission" means the Quality Growth Commission established in Section
114 11-38-201.

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

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

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

121 (8) "OPB" means the governor's Office of Planning and Budget established under Section
122 63-38-1.4.

123 (9) (a) "Open land" means land that is:

124 (i) preserved in or restored to a predominantly natural, open, and undeveloped condition;

125 and

126 (ii) used for:

127 (A) wildlife habitat;

128 (B) cultural or recreational use;

129 (C) watershed protection; or

130 (D) another use consistent with the preservation of the land in or restoration of the land

131 to a predominantly natural, open, and undeveloped condition.

132 (b) (i) "Open land" does not include land whose predominant use is as a developed facility

133 for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar

134 activity.

135 (ii) The condition of land does not change from a natural, open, and undeveloped condition

136 because of the development or presence on the land of facilities, including trails, waterways, and

137 grassy areas, that:

138 (A) enhance the natural, scenic, or aesthetic qualities of the land; or

139 (B) facilitate the public's access to or use of the land for the enjoyment of its natural,

140 scenic, or aesthetic qualities and for compatible recreational activities.

141 (10) "State agency" includes each executive, legislative, and judicial branch department,

142 agency, board, commission, or division, however denominated, and each state educational

143 institution.

144 (11) "State Building Energy Efficiency Program" has the meaning as defined in Section

145 63-9-67.

146 (12) "Surplus land" means real property owned by the Department of Administrative

147 Services, the Department of Agriculture and Food, the Department of Natural Resources, or the

148 Department of Transportation that the individual department determines not to be necessary for

149 carrying out the mission of the department.

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

151 **Part 2. Quality Growth Commission**

152 **11-38-201. Quality Growth Commission -- Term of office -- Vacancy -- Organization**

153 **-- Expenses -- Staff.**

- 154 (1) There is created a Quality Growth Commission consisting of:
155 (a) two persons at the state government level, one of whom shall be from the Department
156 of Natural Resources;
157 (b) six elected officials at the local government level; and
158 (c) five persons from the profit and nonprofit private sector, no more than three of whom
159 may be from the same political party and one of whom shall be from the residential construction
160 industry, nominated by the Utah Home Builders Association, and one of whom shall be from the
161 real estate industry, nominated by the Utah Association of Realtors.
162 (2) (a) Each commission member shall be appointed by the governor with the advice and
163 consent of the Senate.
164 (b) The governor shall select three of the six members under Subsection (1)(b) from a list
165 of names provided by the Utah League of Cities and Towns, and shall select the remaining three
166 from a list of names provided by the Utah Association of Counties.
167 (c) Two of the persons appointed under Subsection (1) shall be from the agricultural
168 community from a list of names provided by Utah farm organizations.
169 (3) (a) The term of office of each member is four years, except that the governor shall
170 appoint one of the persons at the state government level, three of the persons at the local
171 government level, and two of the persons under Subsection (1)(c) to an initial two-year term.
172 (b) No member of the commission may serve more than two consecutive four-year terms.
173 (4) Each mid-term vacancy shall be filled for the unexpired term in the same manner as
174 an appointment under Subsection (2).
175 (5) Commission members shall elect a chair from their number and establish rules for the
176 organization and operation of the commission.
177 (6) (a) No member may receive compensation or benefits for the member's service on the
178 commission.
179 (b) (i) A member who is not a government officer or employee may be reimbursed for
180 reasonable expenses incurred in the performance of the member's official duties at the rates
181 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
182 (ii) A member who is a government officer or employee and who does not receive
183 expenses from the member's agency may be reimbursed for reasonable expenses incurred in the
184 performance of the member's official duties at the rates established by the Division of Finance

185 under Sections 63A-3-106 and 63A-3-107.

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

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

189 (7) Staff services to the commission:

190 (a) shall be provided by OPB; and

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

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

195 **11-38-202. Commission duties and powers -- No regulatory authority.**

196 (1) The commission shall:

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

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

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

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

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

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

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

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

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

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

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

214 **11-38-203. Commission may provide assistance to local entities.**

215 The commission may:

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

218 (a) conduct workshops or public hearings or use other similar methods to obtain public
219 input and participation in the process of identifying for that entity the principles of quality growth
220 referred to in Subsection 11-38-202(1)(f);

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

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

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

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

230 **Part 3. LeRay McAllister Fund**

231 **11-38-301. LeRay McAllister Critical Land Conservation Fund.**

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

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

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

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

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

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

242 (3) The total amount of money in the fund may not exceed \$6,000,000.

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

244 **11-38-302. Use of money in fund -- Criteria -- Administration.**

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

247 (a) a local entity;
248 (b) the Department of Natural Resources created under Section 63-34-3;
249 (c) the Department of Agriculture and Food created under Section 4-2-1; or
250 (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3) of
251 the Internal Revenue Code.

252 (2) (a) The money in the fund shall be used for preserving or restoring open land and
253 agricultural land.

254 (b) (i) Except as provided in Subsection (2)(b)(ii), money from the fund may not be used
255 to purchase a fee interest in real property in order to preserve open land or agricultural land, but
256 may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation
257 Easement Act, or to fund similar methods to preserve open land or agricultural land.

258 (ii) Notwithstanding Subsection (2)(b)(i), money from the fund may be used to purchase
259 a fee interest in real property to preserve open land or agricultural land if:

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

261 (B) with respect to a parcel purchased in a county in which over 50% of the land area is
262 publicly owned, real property roughly equivalent in size and located within that county is
263 contemporaneously transferred to private ownership from the governmental entity that purchased
264 the fee interest in real property.

265 (iii) Eminent domain may not be used or threatened in connection with any purchase using
266 money from the fund.

267 (iv) A parcel of land larger than 20 acres in size may not be divided into separate parcels
268 smaller than 20 acres each to meet the requirement of Subsection (2)(b)(ii).

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

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

274 (e) The commission shall give priority to requests from the Division of Natural Resources
275 for up to 20% of each annual increase in the amount of money in the fund if the money is used for
276 the protection of wildlife or watershed.

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

278 require interest to be paid and shall establish other terms of each loan, including a repayment
279 schedule.

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

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

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

286 (b) shall consider:

287 (i) the nature and amount of open land and agricultural land proposed to be preserved or
288 restored;

289 (ii) the qualities of the open land and agricultural land proposed to be preserved or
290 restored;

291 (iii) the cost effectiveness of the project to preserve or restore open land or agricultural
292 land;

293 (iv) the funds available;

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

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

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

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

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

303 (6) Each interest in real property purchased with money from the fund shall be held and
304 administered by the state or a local entity.

305 Section 9. Section **11-38-303** is enacted to read:

306 **11-38-303. Commission expenses -- Division of Finance responsibilities -- Investment**
307 **of monies into the fund -- Interest to accrue to the fund.**

308 (1) Commission expenses and the costs of administering loans from the fund, as provided

309 in Subsection (2), shall be paid from the fund.

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

312 (b) The Division of Finance may charge to the fund the administrative costs incurred in
313 discharging the responsibilities imposed by Subsection (2)(a).

314 (3) The state treasurer shall invest all monies deposited into the fund, and all interest from
315 investing the monies shall accrue to the fund.

316 Section 10. Section **11-38-304** is enacted to read:

317 **11-38-304. Commission to report annually.**

318 The commission shall submit an annual report to the Executive Appropriations Committee
319 of the Legislature:

320 (1) specifying the amount of each disbursement from the fund, whether by loan or grant;

321 (2) identifying the recipient of each disbursement and describing the project for which
322 money was disbursed; and

323 (3) detailing the conditions, if any, placed by the commission on disbursements from the
324 fund.

325 Section 11. Section **57-18-7** is amended to read:

326 **57-18-7. Conservation easement not obtained through eminent domain --**

327 **Conservation easement may not interfere with eminent domain.**

328 (1) No conservation easement, or right-of-way or access to a conservation easement may
329 be obtained through the use of eminent domain.

330 (2) The existence of a conservation easement may not defeat or interfere with the
331 otherwise proper exercise of eminent domain under Title 78, Chapter 34, Eminent Domain.

332 Section 12. Section **63-9-67** is enacted to read:

333 **ARTICLE 11**

334 **STATE BUILDING ENERGY EFFICIENCY PROGRAM**

335 **63-9-67. State Building Energy Efficiency Program.**

336 (1) For purposes of this section:

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

340 (b) "Energy savings agreement" means an agreement entered into by a state agency
341 participating in the State Building Energy Efficiency Program whereby the state agency
342 implements energy efficiency measures and finances the costs associated with implementation of
343 energy efficiency measures from the stream of expected savings in energy costs resulting from
344 implementation of the energy efficiency measures.

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

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

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

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

353 (2) (a) The person or agency overseeing the state building energy efficiency program, as
354 designated by the governor in an executive order establishing the program, shall submit a report
355 annually to the Capital Facilities and Administrative Services Appropriations Subcommittee of the
356 Legislature.

357 (b) Each report under Subsection (2)(a) shall:

358 (i) specify the amount that represents 50% of the net savings realized by all state agencies
359 from participating in the state building energy efficiency program; and

360 (ii) detail energy programs and strategies that were undertaken to improve the energy
361 efficiency of state agencies and the energy savings achieved.

362 (c) The amount specified under Subsection (2)(b)(i) may be placed into the fund, subject
363 to legislative appropriation during the general session following submission of the report under
364 Subsection (2)(a).

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

368 (4) A state agency may enter into an energy savings agreement for a term of up to 25 years.
369 Section 13. Section **63-38-3** is amended to read:

370 **63-38-3. Appropriations governed by chapter -- Restrictions on expenditures --**

371 **Transfer of funds.**

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

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

380 (b) Each schedule:

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

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

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

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

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

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

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

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

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

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

402 Section 14. Section **63-38-8.1** is amended to read:

403 **63-38-8.1. Nonlapsing authority.**

404 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

432 (i) the expenditure creates a new program;

- 433 (ii) the expenditure enhances the level of an existing program; or
434 (iii) the expenditure will require a legislative appropriation in the next fiscal year.
435 (c) The governor:
436 (i) may approve some or all of the items from an agency's one-time project's list; and
437 (ii) shall identify and prioritize any approved one-time projects in the budget that he
438 submits to the Legislature.
439 (4) The Legislature:
440 (a) may approve some or all of the specific items from an agency's one-time project's list
441 as authorized expenditures of an agency's appropriation balance;
442 (b) shall identify any authorized one-time projects in the appropriate line item
443 appropriation; and
444 (c) may prioritize one-time projects in intent language.
445 (5) The Legislative Fiscal Analyst shall:
446 (a) conduct a study of the nonlapsing authority granted in this section and its effects on the
447 budget, the budget process, the source of or reason for the appropriation balance, and the
448 legislative appropriations power; and
449 (b) report the analysis and any recommendations to the Legislative Management
450 Committee and Interim Appropriations Committee by October 1, 1996.
- 451 Section 15. Section **63-38-18** is enacted to read:
452 **63-38-18. Refund for electrical service to be deposited into the LeRay McAllister**
453 **Fund.**
454 (1) For purposes of this section:
455 (a) The definitions of Section 11-38-102 apply.
456 (b) "Refund" means the return of an amount of money to a state agency from a provider
457 of electrical service under an order of the Utah Public Service Commission requiring a retroactive
458 rate reduction, whether the return is in the form of a direct cash payment, an offset or credit against
459 future charges for electrical service, or any other form.
460 (2) Notwithstanding Subsections 63-38-3(2)(c) and (f), each state agency shall, as directed
461 by the Division of Finance, deposit into the fund the state's share of each refund.
- 462 Section 16. Section **63A-1-112** is amended to read:
463 **63A-1-112. Certificates of participation -- Legislative approval required --**

464 **Definition.**

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

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

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

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

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

476 **Section 17. Additional duties of Quality Growth Commission -- Legislative intent on**
477 **quality growth areas.**

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

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

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

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

488 (c) consider all state sources of revenue for which quality growth areas could be given
489 priority and make a recommendation to the Legislature as to those funding sources it should
490 consider;

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

493 (e) consider and make a recommendation to the Legislature as to whether the 20 acre
494 figure in Subsection 11-38-302(2)(c)(ii) should be adjusted and, if so, what that figure should be;

495 (f) make recommendations to the Legislature as to how to implement the intent of
496 Subsection (4)(a) of this section;

497 (g) consider and make a recommendation to the Legislature as to whether the purposes for
498 which money from the fund may be used should be expanded to include expenditures in quality
499 growth areas to further the purposes of quality growth areas and to implement quality growth
500 principles; and

501 (h) report to the Political Subdivisions Interim Committee of the Legislature by November
502 30, 1999, on the commission's proposals and recommendations under Subsections (2)(a), (b), (c),
503 (d), (e), (f), and (g).

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

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

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

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

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

513 (A) infill development;

514 (B) the redevelopment of existing but obsolete or dilapidated developed areas; or

515 (C) the rehabilitation of Brownfield sites;

516 (iv) whether the area should achieve an average residential density that is greater than the
517 density of existing developed areas in which the quality growth area is located; and

518 (v) whether the local entity should be willing to integrate the conservation of open land
519 and agricultural land.

520 (4) (a) It is the intent of the Legislature that future legislation providing for the
521 establishment of quality growth areas will:

522 (i) include provisions that:

523 (A) except as provided in Subsection (4)(a)(ii), give priority to quality growth areas with
524 respect to accessing state sources of revenue specified by the Legislature after considering the
525 recommendations of the commission under Subsection (2)(c);

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

529 (C) recommend all state agencies, departments, boards, and commissions which administer
530 and disburse funds or develop infrastructure at the state level to adhere to quality growth principles
531 to be formulated by the commission and adopted by the Legislature, and comply with other
532 provisions of Title 11, Chapter 38, Quality Growth Act; and

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

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

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

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

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

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

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

546 (b) how to implement the policy of no net decrease in the quantity or value of private real
547 property available to generate property tax revenues, while recognizing that at times some
548 additional public land will be needed and at other times public land that is not critical can be sold,
549 exchanged, or converted to private ownership to accommodate growth and development;

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

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

554 (e) whether to preserve or restore agricultural land and open land and, if so, how;

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

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

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

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

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

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

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

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

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

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

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

573 **Section 18. Transition of LeRay McAllister Fund.**

574 The LeRay McAllister Critical Land Conservation Revolving Loan Fund, established in
575 Chapter 323, Laws of Utah 1998, is reestablished as the LeRay McAllister Critical Land
576 Conservation Fund under Section 11-38-301, and all assets and liabilities of the LeRay McAllister
577 Critical Land Conservation Revolving Loan Fund are assets and liabilities of the LeRay McAllister
578 Critical Land Conservation Fund.

579 **Section 19. Repealer.**

580 This act repeals:

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

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

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

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

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

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

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

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

590 Section 63-9-64, Definitions.

591 Section 63-9-65, Energy consumption reporting requirements -- State energy
592 management plans.

593 Section 20. **Appropriation.**

594 Except as provided in H.B. 4, Appropriations Coordination Act, there is appropriated
595 \$250,000 from the General Fund for fiscal year 1999-2000 to the Governor's Office of Planning
596 and Budget, established under Section 63-38-1.4, for the purposes set forth in Section 11-38-203.

597 Section 21. **Effective date.**

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