

1 **CHANGES TO QUALITY GROWTH**

2 **COMMISSION**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Craig W. Buttars**

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7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to the Quality Growth Commission.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ designates the director of the Department of Natural Resources and the  
13 commissioner of the Department of Agriculture and Food as commission members;  
14 ▶ modifies the composition of other commission members; and  
15 ▶ requires legislative approval for certain loans or grants of money from the LeRay  
16 McAllister Critical Land Conservation Fund.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **11-38-201**, as last amended by Chapter 176, Laws of Utah 2002

24 **11-38-302**, as enacted by Chapter 24, Laws of Utah 1999

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

27 Section 1. Section **11-38-201** is amended to read:



28           **11-38-201. Quality Growth Commission -- Term of office -- Vacancy --**  
29 **Organization -- Expenses -- Staff.**

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

31           ~~[(a) two persons at the state government level, one of whom shall be from]~~

32           (i) the director of the Department of Natural Resources;

33           (ii) the commissioner of the Department of Agriculture and Food;

34           ~~[(b)]~~ (iii) six elected officials at the local government level, two of whom may not be  
35 residents of a county of the first or second class; and

36           ~~[(c)]~~ (iv) five persons from the profit and nonprofit private sector, three of whom may  
37 not be residents of a county of the first or second class and no more than three of whom may be  
38 from the same political party and one of whom shall be from the residential construction  
39 industry, nominated by the Utah Home Builders Association, and one of whom shall be from  
40 the real estate industry, nominated by the Utah Association of Realtors.

41           (b) (i) The director of the Department of Natural Resources and the commissioner of  
42 the Department of Agriculture and Food may not assume their positions on the commission  
43 until:

44           (A) after May 1, 2005; and

45           (B) the term of the respective predecessor in office, who is a state government level  
46 appointee, expires.

47           (ii) The term of a commission member serving on May 1, 2005 as one of the six  
48 elected local officials or five private sector appointees may not be shortened because of  
49 application of the restriction under Subsections (1)(a)(iii) and (iv) on the number of appointees  
50 from counties of the first or second class.

51           (2) (a) Each commission member appointed under Subsection (1)(a)(iii) or (iv) shall be  
52 appointed by the governor with the consent of the Senate.

53           (b) The governor shall select three of the six members under Subsection (1)~~[(b)]~~ (a)(iii)  
54 from a list of names provided by the Utah League of Cities and Towns, and shall select the  
55 remaining three from a list of names provided by the Utah Association of Counties.

56           (c) Two of the persons appointed under Subsection (1) shall be from the agricultural  
57 community from a list of names provided by Utah farm organizations.

58           (3) (a) The term of office of each member is four years, except that the governor shall

59 appoint one of the persons at the state government level, three of the persons at the local  
60 government level, and two of the persons under Subsection (1)[~~(c)~~] (a)(iv) to an initial two-year  
61 term.

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

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

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

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

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

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

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

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

80 (7) Staff services to the commission:

81 (a) shall be provided by OPB; and

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

85 Section 2. Section **11-38-302** is amended to read:

86 **11-38-302. Use of money in fund -- Criteria -- Administration.**

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

89 (a) a local entity;

- 90 (b) the Department of Natural Resources created under Section 63-34-3;
- 91 (c) the Department of Agriculture and Food created under Section 4-2-1; or
- 92 (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3)
- 93 of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

120 (f) The commission may not, without the Legislature's prior approval, make a grant or

121 loan from the fund that exceeds \$1,000,000.

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

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

127 (4) In determining the amount and type of financial assistance to provide an entity,  
128 department, or organization under Subsection (1) and subject to Subsection (2)(f), the  
129 commission:

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

132 (b) shall consider:

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

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

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

139 (iv) the funds available;

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

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

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

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

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

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

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**Legislative Review Note**  
**as of 1-21-05 2:46 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0266**

**Changes to Quality Growth Commission**

*10-Feb-05*

*12:59 PM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**