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**QUALITY GROWTH ACT**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Joel Ferry**

Senate Sponsor: Jani Iwamoto

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to quality growth.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ grants rulemaking authority;
- ▶ directs the use of ranking criteria;
- ▶ prioritizes funding for working agricultural land;
- ▶ allows certain organizations to hold an interest in real property purchased with money from the program; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 11-38-102**, as last amended by Laws of Utah 2013, Chapter 310
- 11-38-202**, as last amended by Laws of Utah 2009, Chapter 368
- 11-38-302**, as last amended by Laws of Utah 2017, Chapter 345



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

30 Section 1. Section **11-38-102** is amended to read:

31 **11-38-102. Definitions.**

32 As used in this chapter:

33 (1) "Accredited land trust entity" means an entity that is accredited to act as a land trust  
34 by an entity designated by the commission by rule made in accordance with Subsection  
35 11-38-202(3).

36 [~~(1)~~] (2) "Affordable housing" means housing occupied or reserved for occupancy by  
37 households with a gross household income equal to or less than 80% of the median gross  
38 income of the applicable municipal or county statistical area for households of the same size.

39 [~~(2)~~] (3) "Agricultural land" has the same meaning as "land in agricultural use" under  
40 Section 59-2-502.

41 [~~(3)~~] (4) "Brownfield sites" means abandoned, idled, or underused commercial or  
42 industrial land where expansion or redevelopment is complicated by real or perceived  
43 environmental contamination.

44 [~~(4)~~] (5) "Commission" means the Quality Growth Commission established in Section  
45 11-38-201.

46 [~~(5)~~] (6) "Infill development" means residential, commercial, or industrial development  
47 on unused or underused land, excluding open land and agricultural land, within existing,  
48 otherwise developed urban areas.

49 [~~(6)~~] (7) "Local entity" means a county, city, or town.

50 [~~(7)~~] (8) (a) "Open land" means land that is:

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

53 (ii) used for:

54 (A) wildlife habitat;

55 (B) cultural or recreational use;

56 (C) watershed protection; or

57 (D) another use consistent with the preservation of the land in or restoration of the land  
58 to a predominantly natural, open, and undeveloped condition.

59 (b) (i) "Open land" does not include land whose predominant use is as a developed  
60 facility for active recreational activities, including baseball, tennis, soccer, golf, or other  
61 sporting or similar activity.

62 (ii) The condition of land does not change from a natural, open, and undeveloped  
63 condition because of the development or presence on the land of facilities, including trails,  
64 waterways, and grassy areas, that:

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

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

68 [~~8~~] (9) "Program" means the LeRay McAllister Critical Land Conservation Program  
69 established in Section 11-38-301.

70 [~~9~~] (10) "Surplus land" means real property owned by the Department of  
71 Administrative Services, the Department of Agriculture and Food, the Department of Natural  
72 Resources, or the Department of Transportation that the individual department determines not  
73 to be necessary for carrying out the mission of the department.

74 (11) (a) "Working agricultural land" means agricultural land for which an owner or  
75 producer engages in the activity of producing for commercial purposes crops, orchards,  
76 livestock, poultry, aquaculture, livestock products, or poultry products and the facilities,  
77 equipment, and property used to facilitate the activity.

78 (b) "Working agricultural land" includes an agricultural protection area established  
79 under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials  
80 Protection Areas.

81 Section 2. Section 11-38-202 is amended to read:

82 **11-38-202. Commission duties and powers -- No regulatory authority --**

83 **Rulemaking -- Criteria.**

84 (1) The commission shall:

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

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

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

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

93 (e) administer the program as provided in this chapter;

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

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

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

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

101 (3) The commission may not exercise any regulatory authority. The commission may  
 102 make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to  
 103 designate a nationally recognized entity ~~H→ [that establishes standards and accredits]~~

103a to accredit ~~←H~~ an entity to

104 ~~H→ [operate] act ←H~~ as ~~H→ [a] an accredited ←H~~ land trust ~~H→ entity ←H~~ .

105 (4) In carrying out the commission's powers and duties under this chapter, the  
 106 commission shall adopt ranking criteria that is substantially similar to the ranking criteria used  
 107 by the Agriculture Conservation Easement Program and Agriculture Land Easement as  
 108 determined by the Natural Resources Conservation Service under the United States Department  
 109 of Agriculture.

110 Section 3. Section **11-38-302** is amended to read:

111 **11-38-302. Use of money in program -- Criteria -- Administration.**

112 (1) Subject to Subsection (2), the commission may authorize the use of money in the  
 113 program, by grant, to:

114 (a) a local entity;

115 (b) the Department of Natural Resources created under Section [79-2-201](#);

116 (c) the Department of Agriculture and Food created under Section [4-2-102](#); or

117 (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3),  
 118 Internal Revenue Code.

119 (2) (a) The money in the program shall be used for preserving or restoring open land  
 120 and agricultural land.

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

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

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

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

133 (iii) Eminent domain may not be used or threatened in connection with any purchase  
134 using money from the program.

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

137 (c) A local entity, department, or organization under Subsection (1) may not receive  
138 money from the program unless ~~[it]~~ the local entity, department, or organization provides  
139 matching funds equal to or greater than the amount of money received from the program.

140 (d) In granting money from the program, the commission may impose conditions on  
141 the recipient as to how the money is to be spent.

142 (e) The commission shall give priority to:

143 (i) working agricultural land; and

144 (ii) after giving priority to working agricultural land under Subsection (2)(e)(i),

145 requests from the Department of Natural Resources for up to 20% of each annual increase in  
146 the amount of money in the program if the money is used for the protection of wildlife or  
147 watershed.

148 (f) (i) The commission may not make a grant from the program that exceeds  
149 \$1,000,000 until after making a report to the Legislative Management Committee about the  
150 grant.

151 (ii) The Legislative Management Committee may make a recommendation to the

152 commission concerning the intended grant, but the recommendation is not binding on the  
153 commission.

154 (3) In determining the amount and type of financial assistance to provide an entity,  
155 department, or organization under Subsection (1) and subject to Subsection (2)(f), the  
156 commission shall consider:

157 (a) the nature and amount of open land and agricultural land proposed to be preserved  
158 or restored;

159 (b) the qualities of the open land and agricultural land proposed to be preserved or  
160 restored;

161 (c) the cost effectiveness of the project to preserve or restore open land or agricultural  
162 land;

163 (d) the funds available;

164 (e) the number of actual and potential applications for financial assistance and the  
165 amount of money sought by those applications;

166 (f) the open land preservation plan of the local entity where the project is located and  
167 the priority placed on the project by that local entity;

168 (g) the effects on housing affordability and diversity; and

169 (h) whether the project protects against the loss of private property ownership.

170 (4) If a local entity, department, or organization under Subsection (1) seeks money  
171 from the program for a project whose purpose is to protect critical watershed, the commission  
172 shall require that the needs and quality of that project be verified by the state engineer.

173 (5) [~~Each~~] An interest in real property purchased with money from the program shall  
174 be held and administered by the state [~~or~~], a local entity, or an accredited land trust entity.