

QUALITY GROWTH ACT OF 1999

1999 GENERAL SESSION

STATE OF UTAH

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

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

AMENDS:

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

57-18-7, as enacted by Chapter 155, Laws of Utah 1985

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

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

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

ENACTS:

11-38-101, Utah Code Annotated 1953

11-38-102, Utah Code Annotated 1953

11-38-201, Utah Code Annotated 1953

11-38-202, Utah Code Annotated 1953

11-38-203, Utah Code Annotated 1953

11-38-301, Utah Code Annotated 1953

11-38-302, Utah Code Annotated 1953

11-38-303, Utah Code Annotated 1953

11-38-304, Utah Code Annotated 1953

63-9-67, Utah Code Annotated 1953

63-38-18, Utah Code Annotated 1953

REPEALS:

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

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

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

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

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

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

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

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

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

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

This act enacts uncodified material.

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

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

9-4-505. Allocation of volume cap.

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

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

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

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

- (a) the principal amount of the bonds proposed to be issued;
- (b) the nature and the location of the project or the type of program;
- (c) the likelihood that the bonds will be sold and the timeframe of bond issuance;
- (d) whether the project or program could obtain adequate financing without an allocation of volume cap;
- (e) the degree to which an allocation of volume cap is required for the project or program to proceed or continue;
- (f) the social, health, economic, and educational effects of the project or program on the local community and state as a whole;
- (g) the anticipated number of jobs, both temporary and permanent, created or retained within the local community and the state as a whole; [and]
- (h) if the project is a residential rental project, the degree to which the residential rental

project targets lower income populations; and

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

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

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

CHAPTER 38. QUALITY GROWTH ACT

Part 1. General Provisions

11-38-101. Title.

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

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

11-38-102. Definitions.

As used in this chapter:

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

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

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

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

(5) "Fund" means the LeRay McAllister Critical Land Conservation Fund established in Section 11-38-301.

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

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

(8) "OPB" means the governor's Office of Planning and Budget established under Section

63-38-1.4.

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

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

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

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

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

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

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

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

(10) "State agency" includes each executive, legislative, and judicial branch department, agency, board, commission, or division, however denominated, and each state educational institution.

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

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

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

Part 2. Quality Growth Commission**11-38-201. Quality Growth Commission -- Term of office -- Vacancy -- Organization -- Expenses -- Staff.**

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

(a) two persons at the state government level, one of whom shall be from the Department of Natural Resources;

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

(c) five persons from the profit and nonprofit private sector, no more than three of whom may be from the same political party and one of whom shall be from the residential construction industry, nominated by the Utah Home Builders Association, and one of whom shall be from the real estate industry, nominated by the Utah Association of Realtors.

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

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

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

(3) (a) The term of office of each member is four years, except that the governor shall appoint one of the persons at the state government level, three of the persons at the local government level, and two of the persons under Subsection (1)(c) to an initial two-year term.

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

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

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

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

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

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

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

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

(7) Staff services to the commission:

(a) shall be provided by OPB; and

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

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

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

(1) The commission shall:

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

(b) advise the Legislature on growth management issues;

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

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

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

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

growth for that entity;

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

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

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

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

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

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

The commission may:

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

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

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

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

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

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

Part 3. LeRay McAllister Fund

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

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

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

(b) contributions of money, property, or equipment from federal agencies, political

subdivisions of the state, persons, or corporations;

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

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

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

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

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

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

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

(a) a local entity;

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

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

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

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

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

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

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

(B) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is

contemporaneously transferred to private ownership from the governmental entity that purchased the fee interest in real property.

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

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

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

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

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

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

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

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

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

(b) shall consider:

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

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

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

(iv) the funds available;

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

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

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

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

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

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

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

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

(1) Commission expenses and the costs of administering loans from the fund, as provided in Subsection (2), shall be paid from the fund.

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

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

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

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

11-38-304. Commission to report annually.

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

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

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

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

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

57-18-7. Conservation easement not obtained through eminent domain -- Conservation easement may not interfere with eminent domain.

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

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

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

ARTICLE 11

STATE BUILDING ENERGY EFFICIENCY PROGRAM

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

(1) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 13. Section **63-38-3** is amended to read:

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

Transfer of funds.

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

(2) (a) In providing that certain appropriations are to be expended in accordance with a

schedule or other restrictions, if any, set forth after each appropriations item, it is the intent of the Legislature to limit the amount of money to be expended from each appropriations item for certain specified purposes.

(b) Each schedule:

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

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

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

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

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

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

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

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

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

63-38-8.1. Nonlapsing authority.

(1) As used in this section:

- (a) (i) "Agency" means each department, commission, board, council, agency, institution,

officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) the expenditure creates a new program;

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

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

(c) The governor:

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

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

(4) The Legislature:

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

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

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

(5) The Legislative Fiscal Analyst shall:

(a) conduct a study of the nonlapsing authority granted in this section and its effects on the budget, the budget process, the source of or reason for the appropriation balance, and the legislative appropriations power; and

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

Section 15. Section **63-38-18** is enacted to read:

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

(1) For purposes of this section:

(a) The definitions of Section 11-38-102 apply.

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

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

Section 16. Section **63A-1-112** is amended to read:

63A-1-112. Certificates of participation -- Legislative approval required -- Definition -- Exception.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) whether the area should have potential for:

(A) infill development;

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

(C) the rehabilitation of Brownfield sites;

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

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

agricultural land.

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

(i) include provisions that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 18. Transition of LeRay McAllister Fund.

The LeRay McAllister Critical Land Conservation Revolving Loan Fund, established in

Chapter 323, Laws of Utah 1998, is reestablished as the LeRay McAllister Critical Land Conservation Fund under Section 11-38-301, and all assets and liabilities of the LeRay McAllister Critical Land Conservation Revolving Loan Fund are assets and liabilities of the LeRay McAllister Critical Land Conservation Fund.

Section 19. Repealer.

This act repeals:

Section 11-28-101, Definitions.

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

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

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

Section 11-28-105, Loan limitations.

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

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

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

Section 63-9-64, Definitions.

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

Section 20. Appropriation.

There is appropriated \$250,000 from the General Fund for fiscal year 1999-2000 to the Governor's Office of Planning and Budget, established under Section 63-38-1.4, for the purposes set forth in Section 11-38-203.

Section 21. Effective date.

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