

# HB0272S01 compared with HB0272

~~{deleted text}~~ shows text that was in HB0272 but was deleted in HB0272S01.

inserted text shows text that was not in HB0272 but was inserted into HB0272S01.

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Representative Doug Owens proposes the following substitute bill:

## WATER EFFICIENT LANDSCAPING AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Doug Owens**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill addresses ~~{incentives to}~~ use ~~{water efficient landscaping}~~ of lawn or turf.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ ~~{modifies an incentive program to use water efficient landscaping including modifying eligibility requirements, requiring implementation of regional-based water use efficiency standards, and imposing requirements related to the Great Salt Lake basin;~~

~~→ provides for grants to water conservancy districts;~~

~~→ provides for rulemaking;~~

~~→ addresses scope of section;~~ addresses lawn and turf related to development

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### activities:

- ▶ restricts the use of lawn or turf by certain governmental entities; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ This bill provides a special effective date.~~

~~{ This bill provides a coordination clause. }~~ None

### Utah Code Sections Affected:

AMENDS:

~~{73-10-37}~~ 10-9a-536, as enacted by Laws of Utah 2022, Chapter ~~{50}~~ 230

~~{ Utah Code Sections Affected by Coordination Clause:~~

~~{~~ ~~{73-10-37}~~ 17-27a-532, as enacted by Laws of Utah 2022, Chapter ~~{50}~~

~~{~~ 230

63A-5b-1108, as enacted by Laws of Utah 2022, Chapter 50

ENACTS:

11-39-108, Utah Code Annotated 1953

53G-7-224, Utah Code Annotated 1953

72-7-111, Utah Code Annotated 1953

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

Section 1. Section 10-9a-536 is amended to read:

**10-9a-536. Water wise landscaping.**

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Low density residential development" means development activity on a lot or parcel of land whose primary use is for fewer than five dwelling units, including:

(i) a single family detached dwelling;

(ii) a duplex, triplex, or fourplex;

(iii) an area for the exclusive use of a mobile home; and

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(iv) the common areas and limited common areas of a residential condominium development or planned unit development with fewer than five dwelling units.

~~(b)~~ (c) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

~~(e)~~ (d) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(e) "Parkstrip" means the area between the back of a curb or, if there is no curb, the edge of pavement and the sidewalk.

~~(d)~~ (f) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

~~(e)~~ (g) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) A municipality may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a municipality from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the

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municipality, including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to municipal operations;

(B) imposes minimum or maximum vegetative coverage standards; or

(C) restricts or prohibits the use of specific plant materials.

(b) A municipality may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

(4) Subject to Subsection (5), a municipality shall:

(a) require development activity to use water wise landscaping, where landscaping is proposed to be installed:

(i) in a parkstrip; and

(ii) within the interior of a parking lot; and

(b) not approve the installation of lawn or turf as part of development activity:

(i) in a parkstrip;

(ii) within the interior of a parking lot; or

(iii) in an area where the lawn or turf would have a width of less than eight feet.

(5) Subsection (4) does not apply to low density residential development.

Section 2. Section 11-39-108 is enacted to read:

**11-39-108. Use of lawn or turf.**

(1) As used in this section:

(a) "Active recreation area" means an area of local entity property that is:

(i) comprised of lawn or turf dedicated to active use; and

(ii) installed or maintained on an area with a slope of not more than 25%.

(b) "Active use" means regular use for playing, exercise, recreation, or regular outdoor

activities that are ordinarily associated with lawn or turf, such as:

(i) a sports field;

(ii) a social gathering area;

(iii) an amphitheater;

(iv) a public or private park; or

(v) the playing area, including rough, driving ranges, and chipping and putting greens,

of a golf course.

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(c) "Landscaped area" means those portions of local entity property that are, or will not be, occupied by:

(i) a permanent structure; or

(ii) an impervious surface associated with vehicular or pedestrian access or use, such as a driveway, sidewalk, or parking lot.

(d) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(e) "Local entity property" means real property owned or occupied by a local entity.

(f) "New construction" means a project for the construction of a public facility on local entity property that includes a new or modified landscaped area of more than 7,500 square feet.

(g) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(h) "Parkstrip" means the area between the back of a curb or, if there is no curb, the edge of pavement and the sidewalk.

(i) "Public facility" means a building, structure, infrastructure, improvement, park, playground, or other facility of a local entity.

(j) "Reconstruction" means a project for renovation, alteration, improvement, or repair of a public facility on local entity property that affects more than 25% of the landscaped area existing before the reconstruction.

(k) "Special use area" means an area of local entity property that requires the use of lawn or turf due to unique circumstances associated with the land, including cemeteries or detention or retention basins that serve a dual purpose of active recreation areas and storm water management.

(2) Local entity property on which a local entity undertakes new construction or reconstruction on or after May 3, 2023:

(a) may not have lawn or turf installed or maintained:

(i) on more than 20% of the landscaped area, after deducting active recreation areas or special use areas;

(ii) in a parkstrip;

(iii) within the interior of a parking lot; or

(iv) in an area where the lawn or turf would have a width of less than eight feet;

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(b) may not have a sprinkler zone that provides overhead spray irrigation for lawn or turf shared with an area that does not have lawn or turf;

(c) shall have the use of overhead spray irrigation restricted to the portions of the landscaped area that has lawn or turf; and

(d) may not have an active recreation area with a size that is larger than the reasonably anticipated need for the type of use the area is intended to accommodate.

Section 3. Section 17-27a-532 is amended to read:

### **17-27a-532. Water wise landscaping.**

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Low density residential development" means development activity on a lot or parcel of land whose primary use is for fewer than five dwelling units, including:

(i) a single family detached dwelling;

(ii) a duplex, triplex, or fourplex;

(iii) an area for the exclusive use of a mobile home; and

(iv) the common areas and limited common areas of a residential condominium development or planned unit development with fewer than five dwelling units.

~~(b)~~ (c) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

~~(c)~~ (d) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(e) "Parkstrip" means the area between the back of a curb or, if there is no curb, the edge of pavement and the sidewalk.

~~(d)~~ (f) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

~~(e)~~ (g) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

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- (A) remain healthy with minimal irrigation once established; or
- (B) be maintained without the use of overhead spray irrigation;
- (ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or
- (iii) the use of other landscape design features that:
  - (A) minimize the need of the landscape for supplemental water from irrigation; or
  - (B) reduce the landscape area dedicated to lawn or turf.
- (2) A county may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a county from requiring a property owner to:

- (i) comply with a site plan review or other review process before installing water wise landscaping;
- (ii) maintain plant material in a healthy condition; and
- (iii) follow specific water wise landscaping design requirements adopted by the county, including a requirement that:
  - (A) restricts or clarifies the use of mulches considered detrimental to county operations;
  - (B) imposes minimum or maximum vegetative coverage standards; or
  - (C) restricts or prohibits the use of specific plant materials.
- (b) A county may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

(4) Subject to Subsection (5), a county shall:

(a) require development activity to use water wise landscaping, where landscaping is proposed to be installed:

(i) in a parkstrip; and

(ii) within the interior of a parking lot; and

(b) not approve the installation of lawn or turf as part of development activity:

(i) in a parkstrip;

(ii) within the interior of a parking lot; or

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(iii) in an area where the lawn or turf would have a width of less than eight feet.

(5) Subsection (4) does not apply to low density residential development.

Section 4. Section 53G-7-224 is enacted to read:

### 53G-7-224. Use of lawn or turf.

(1) As used in this section:

(a) "Active recreation area" means an area of school property that is:

(i) comprised of lawn or turf dedicated to active use; and

(ii) installed or maintained on an area with a slope of not more than 25%.

(b) "Active use" means regular use for playing, exercise, recreation, or regular outdoor activities that are ordinarily associated with lawn or turf, such as:

(i) a sports field;

(ii) a social gathering area;

(iii) an amphitheater; or

(iv) a public or private park.

(c) "Landscaped area" means those portions of school property that will not be occupied by:

(i) a permanent structure; or

(ii) an impervious surface associated with vehicular or pedestrian access or use, such as a driveway, sidewalk, or parking lot.

(d) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(e) "LEA" means:

(i) a school district;

(ii) a charter school, other than an online-only charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(f) "New construction" means a project for the construction of a public facility on school property that includes a new or modified landscaped area of more than 7,500 square feet.

(g) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(h) "Parkstrip" means the area between the back of a curb or, if there is no curb, the



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edge of pavement and the sidewalk.

(i) "Public facility" means a building, structure, infrastructure, improvement, sports field, playground, or other facility of an LEA.

(j) "Reconstruction" means a project for the renovation, alteration, improvement, or repair of a public facility on school property that affects more than 25% of the landscaped area existing before the reconstruction.

(k) "School property" means real property owned or occupied by an LEA.

(l) "Special use area" means an area of school property that requires the use of lawn or turf due to unique circumstances associated with the land, including detention or retention basins that serve a dual purpose of active recreation areas and storm water management.

(2) School property on which an LEA undertakes new construction or reconstruction on or after May 3, 2023:

(a) may not have lawn or turf installed or maintained:

(i) on more than 20% of the landscaped area, after deducting active recreation areas or special use areas;

(ii) in a parkstrip;

(iii) within the interior of a parking lot;

(iv) in an area where the lawn or turf would have a width of less than eight feet; and

(v) within a road or area of vehicular access, including in a median or roundabout;

(b) may not have a sprinkler zone that provides overhead spray irrigation for lawn or turf shared with an area that does not have lawn or turf;

(c) shall have the use of overhead spray irrigation restricted to the portions of the landscaped area that has lawn or turf; and

(d) may not have an active recreation area with a size that is larger than the reasonably anticipated need for the type of use the area is intended to accommodate.

Section 5. Section 63A-5b-1108 is amended to read:

**63A-5b-1108. Water conservation and state government facilities.**

(1) As used in this section:

(a) "Division" means the Division of Water Resources.

(b) "Grounds" means the real property, whether fenced or unfenced, of the parcel of land on which is located a state government facility, [including a] but not including areas

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occupied by a building, public or private driveway, street, sidewalk or walkway, parking lot, or parking garage on the property.

(c) (i) Except as provided in Subsection (1)(c)(ii), "lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(ii) "Lawn or turf" does not include a golf course, park, athletic field, or sod farm.

(d) "Parkstrip" means the area between the back of a curb or, if there is no curb, the edge of pavement and the sidewalk.

~~[(d)]~~ (e) "Reconstructed" means that a building is subject to construction that affects the exterior of the building or the building's grounds.

~~[(e)]~~ (f) (i) "State agency" means a department, division, office, entity, agency, or other unit of state government.

(ii) "State agency" includes an institution of higher education.

~~[(f)]~~ (g) (i) "State government facility" means a building, structure, or other improvement that is constructed on property owned by the state, the state's departments, commissions, institutions, or other state agency.

(ii) "State government facility" does not include:

(A) an unoccupied structure that is a component of the state highway system;

(B) a privately owned structure that is located on property owned by the state, the state's department, commission, institution, or other state agency; or

(C) a structure that is located on land administered by the trust lands administration under a lease, permit, or contract with the trust lands administration.

(2) (a) Unless exempted under Subsection (2)(b), a state agency that owns or occupies a state government facility that is built or reconstructed on or after ~~May 4, 2022~~ May 3, 2023, may not ~~have more than 20% of the grounds of the state government facility be lawn or turf.~~ [have] install or maintain lawn or turf:

(i) on more than 20% of the grounds of the state government facility [be lawn or turf];

(ii) in a parkstrip;

(iii) within the interior of a parking lot on the grounds of the state government facility;

or

(iv) in an area of the grounds of the state government facility where the lawn or turf would have a width of less than eight feet.

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(b) The division may exempt a state government facility from the restrictions of Subsection (2)(a) if the division determines that the purposes of a state agency that occupies the state government facility requires additional lawn or turf.

(3) (a) A state agency shall reduce the state agency's outdoor water use as compared to the state agency's outdoor water use for fiscal year 2020:

(i) in an amount equal to or greater than 5% by the end of fiscal year 2023; and

(ii) in an amount equal to or greater than 25% by the end of fiscal year 2026.

(b) A state agency shall submit the following information to the division:

(i) by no later than October 1, 2022:

(A) the state agency's water use for fiscal year 2020; and

(B) the state agency's water use for fiscal year 2022;

(ii) by no later than October 1, 2023, the state agency's water use for fiscal year 2023;

and

(iii) by no later than October 1, 2026, the state agency's water use for fiscal year 2026.

(c) The division shall:

(i) post the information provided to the division under this Subsection (3) on a public website; and

(ii) by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a uniform measure for purposes of this section of a state agency's water use.

(4) Except when allowed by the division, a state agency may not water landscapes at a state government facility between the hours of 10 a.m. and 6 p.m.

(5) A state agency shall do the following at a state government facility:

(a) follow weekly lawn watering guides if issued by the division;

(b) manually shut off systems during rain and wind events if the landscape irrigation system does not have rain and wind shutoff functions;

(c) implement a leak-detection and repair program for outdoor use;

(d) coordinate with the division to implement water efficient methods, technologies, and practices; and

(e) at least annually:

(i) evaluate opportunities to update irrigation technology with devices that:

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(A) meet national recognized standards for efficiency;

(B) include rain and wind shutoff functions; and

(C) include soil moisture sensors;

(ii) evaluate opportunities to:

(A) subject to Subsection (2), limit lawn or turf on the grounds of a state government facility and replace lawn or turf with water-wise plants; and

(B) update facility-management technology to include metering for water-consuming processes related to irrigation and mechanical systems; and

(iii) audit and repair a landscape irrigation system so that the landscape irrigation system is operating at maximum acceptable efficiency.

Section ~~{1}~~6. Section ~~{73-10-37};~~72-7-111 is ~~{amended}~~enacted to read:

~~{73-10-37};~~72-7-111. ~~{ Incentives to use water efficient landscaping}~~ Use of lawn or turf.

(1) As used in this section~~;~~:

~~— (a) "Active recreation area" means an area of a lot or parcel that is:~~

~~— (i) not in low density residential development;~~

~~— (ii) comprised of lawn or turf dedicated to active use; and~~

~~— (iii) installed or maintained on areas with a slope of not more than 25%.~~

~~— (b) "Active use" means regular use for playing, exercise, recreation, or regular outdoor activities that are ordinarily associated with lawn or turf, such as:~~

~~— (i) a sports field;~~

~~— (ii) a social gathering area;~~

~~— (iii) an amphitheater;~~

~~— (iv) a public or private park; or~~

~~— (v) the playing area, including rough, driving ranges, and chipping and putting greens, of a golf course.~~

~~— (c) "District" means a water conservancy district, as that term is defined in Section 73-10-32.~~

~~— (d) "Division" means the Division of Water Resources.~~

~~— (e) "Great Salt Lake basin" means the area within:~~

~~— (i) the surveyed meander line of the Great Salt Lake;~~

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- ~~—— (ii) the drainage areas of the Bear River or the Bear River's tributaries;~~
- ~~—— (iii) the drainage areas of Bear Lake or Bear Lake's tributaries;~~
- ~~—— (iv) the drainage areas of the Weber River or the Weber River's tributaries;~~
- ~~—— (v) the drainage areas of the Jordan River or the Jordan River's tributaries;~~
- ~~—— (vi) the drainage areas of Utah Lake or Utah Lake's tributaries;~~
- ~~—— (vii) other water drainages lying between the Bear River and the Jordan River that are tributary to the Great Salt Lake and not included in the drainage areas described in Subsections (1)(c)(ii) through (vi); and~~
- ~~—— (viii) the drainage area of Tooele Valley.~~
- ~~—— (f) "Landscaped area" means those portions of a lot or parcel that are not occupied by:~~
  - ~~—— (i) a permanent structure; or~~
  - ~~—— (ii) an impervious surface associated with vehicular or pedestrian access or use, such as a driveway, sidewalk, or parking lot.~~
- ~~—— (g) "Landscaping conversion incentive program" means a program administered by a district that pays an owner a financial incentive to remove lawn or turf from a project area on land owned by the owner.~~
- ~~—— [(b)] (h) (i) Except as provided in Subsection [(1)(b)(ii)] (1)(h)(ii), "lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.~~
  - ~~(ii) "Lawn or turf" does not include a [golf course, park, athletic field, or] sod farm.~~
- ~~—— (i) "Low density residential development" means a lot or parcel of land whose primary use is for fewer than five dwelling units, including:~~
  - ~~—— (i) a single family dwelling;~~
  - ~~—— (ii) a duplex, triplex, or fourplex;~~
  - ~~—— (iii) an area for the exclusive use of a mobile home; and~~
  - ~~—— (iv) the common areas and limited common areas of a residential condominium development or planned unit development with fewer than five dwelling units.~~
- ~~—— (j) (i) "New construction" means construction of a new building or structure.~~
- ~~—— (ii) "New construction" does not include:~~
  - ~~—— (A) reconstruction of an existing building or structure that does not constitute complete replacement of an existing building or structure; or~~
  - ~~—— (B) construction of an addition to an existing building or structure unless the addition~~

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~~requires substantially new landscaping as determined by the applicable municipality or county:~~

~~—— (k) "Overhead spray irrigation" means the same as that term is defined in Section 57-8a-231.~~

~~—— [(c)] (l) "Owner" means an owner of private or public land where a water end user is located.~~

~~—— (m) "Parkstrip" means the area~~2) A highway authority may not install, maintain, or allow for the installation or maintenance by others of lawn or turf requiring the use of artificial irrigation in a highway construction project commenced on or after May 3, 2023, within the portion of the highway:

(a) located between the back of {a curb or;} the curb on either side of the highway, including in a median or roundabout; or

(b) if there is no curb, {the edge of pavement and the sidewalk.

~~—— (n) "Program guidelines" means guidelines adopted by a district for the district's landscaping conversion incentive program.~~

~~—— (o) "Project area" means the area from which lawn or turf is removed and replaced with water efficient landscaping.~~

~~—— (p) "Special uses area" means an area of a lot or parcel that:~~

~~—— (i) is not located in low density residential development; and~~

~~—— (ii) requires the use of lawn or turf due to unique circumstances associated with the land, including cemeteries or detention or retention basins that serve a dual purpose of active recreation areas and storm water management.~~

~~—— [(d)] (q) "Water end user" means a person who enters into a water contract to obtain water from a retail water provider for residential, commercial, industrial, or institutional use.~~

~~—— (2) [(a)] Subject to a [\$5,000,000] \$12,500,000 aggregate annual cap, the division may:~~

~~—— (a) award a grant under Subsection (3) to a district to fund financial incentives provided through a landscaping conversion incentive program administered by the district; and~~

~~—— (b) provide an incentive under Subsection (4) to an owner to remove lawn or turf from a project area on land owned by the owner in an area without a landscaping conversion incentive program.~~

~~—— (3) (a) (i) A district may obtain a grant from the division to help fund a financial incentive provided to an owner through a landscaping conversion incentive program~~

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administered by the district.

~~—— (ii) Both the award and use of a grant under this Subsection (3) are subject to Subsections (3)(b), (c), and (d):~~

~~—— (b) To obtain a grant, a district shall:~~

~~—— (i) initiate and operate a landscaping conversion incentive program;~~

~~—— (ii) limit the disbursement of grant money in the district's landscaping conversion incentive program to owners that satisfy the minimum requirements of Subsection (4)(c) and:~~

~~—— (A) rules made by the division under Subsection (6)(b); or~~

~~—— (B) program guidelines approved by the division under Subsection (3)(f);~~

~~—— (iii) use the grant exclusively to fund financial incentives provided to owners that remove lawn or turf from a project area in the district's landscaping conversion incentive program;~~

~~—— (iv) provide an equal amount or more of matching funds for the district's landscaping conversion incentive program from sources other than the grant money the district receives under this section;~~

~~—— (v) file an application with the division that:~~

~~—— (A) describes the district's landscaping conversion incentive program, including verification that the program can and shall implement the minimum requirements of Subsection (4)(c), and either rules made by the division under Subsection (6)(b) or program guidelines approved by the division under Subsection (3)(f);~~

~~—— (B) includes a copy of the program guidelines governing the district's landscaping conversion incentive program;~~

~~—— (C) if the district wants to be subject to program guidelines in lieu of division rules made under Subsection (6)(b), requests that the division approve the district's program guidelines under Subsection (3)(f); and~~

~~—— (D) provides additional information requested by the division; and~~

~~—— (vi) enter into a contract with the division that requires the district to:~~

~~—— (A) verify that participants comply and landscaping conversion projects proposed, undertaken, and completed by participants under the district's landscaping conversion incentive program satisfy the requirements in this Subsection (3) and any contract before using grant money for a financial incentive;~~

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- ~~—— (B) agree not to use grant money for a financial incentive in any landscaping conversion project that fails to satisfy the requirements of this Subsection (3) and either rules made by the division or program guidelines approved by the division under Subsection (3)(f);~~
- ~~—— (C) submit to the division quarterly reports on funding status; and~~
- ~~—— (D) prepare and submit an annual accounting to the division on the use of grant money for financial incentives in the district's landscaping conversion incentive program.~~
- ~~—— (c) (i) Upon expenditure of 70% of the grant money awarded to a district and an accounting on the use of that grant money, a district may apply for additional grant money in accordance with Subsection (3)(b):~~
  - ~~—— (ii) The division may award a district an additional grant based on:~~
    - ~~—— (A) the availability of grant money;~~
    - ~~—— (B) the priority or importance of the grant proposal in relation to availability of grant money, the division's landscaping conversion incentive program under this Subsection (3), other landscaping conversion incentive program grant requests, and regional needs and goals;~~
    - ~~—— (C) the effectiveness of the district's landscaping conversion incentive program in incentivizing owners to convert lawn or turf to water efficient landscaping;~~
    - ~~—— (D) the district's previous compliance with this Subsection (3) and contract terms and conditions; and~~
    - ~~—— (E) any matter bearing on the district's ability to responsibly handle and disperse grant money consistent with this Subsection (3) and contract terms and conditions.~~
- ~~—— (d) A district awarded grant money under this Subsection (3) may not use grant money to pay an incentive that exceeds the maximum amount established by the division by rule under Subsection (6)(c):~~
- ~~—— (e) Nothing in this section prohibits a district from expending non-grant money, including matching money, under the district's landscaping conversion incentive program to:~~
  - ~~—— (i) assist an owner that does not satisfy Subsection (4)(c); or~~
  - ~~—— (ii) provide an incentive that exceeds a maximum amount established by the division for grant money under Subsection (3)(d):~~
- ~~—— (f) The division may approve a request from a district under Subsection (3)(b)(v)(C) to use program guidelines in lieu of rules made by the division under Subsection (6)(b) if the division determines that the district's program guidelines will:~~



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~~— (i) result in at least as much water use savings as rules made under Subsection (6)(b); and~~

~~— (ii) accomplish the same objectives as rules made under Subsection (6)(b);~~

~~— (4) (a) In an area without an existing landscaping conversion incentive program, the division may provide an incentive to an owner to remove lawn or turf from land owned by the owner and replace the lawn or turf with [drought resistant] water efficient landscaping;~~

~~— (b) If the division provides an incentive under this [section] Subsection (4), the division shall provide the incentive in the order that an application for the incentive is filed. The division may terminate an application if the division determines that the owner has not completed the project within 12 months after the day on which the owner files an application for the incentive.~~

~~— (c) To be eligible for an incentive under this [section,] Subsection (4):~~

~~— (i) the owner shall at the time the owner applies for the incentive:~~

~~— [(i)] (A) have living lawn or turf, as determined by the entity providing the incentive, on the land owned by the owner that the owner intends to replace with [drought resistant] water efficient landscaping; and~~

~~— [(ii)] be in good standing with a retail water provider so that the owner has no unpaid water bills; and]~~

~~— [(iii)] (B) participate voluntarily in the removal of the lawn or turf in that the removal is not required by governmental code or policy[-.];~~

~~— (ii) the property where the project area is located, is located within:~~

~~— (A) a municipality that implements regional-based water use efficiency standards established in accordance with Subsection (5) or rules made by the division under Subsection (6)(d); or~~

~~— (B) an unincorporated area of a county that implements regional-based water use efficiency standards established in accordance with Subsection (5) or rules made by the division under Subsection (6)(d); and~~

~~— (iii) the owner shall agree to:~~

~~— (A) maintain water efficient landscaping and a drip irrigation system installed in the project area and not reinstall lawn or turf, or overhead spray irrigation in the project area after receipt of a payment under this section to incentivize conversion of lawn or turf to water~~

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efficient landscaping; or

—— (B) return to the division or to a district the payments received for removal of lawn or turf from the project area.

—— (d) An owner may not receive an incentive under this section if the owner has previously received an incentive under this section for the same [property] project area.

—— (e) [The division may not provide an owner] An owner may not receive an incentive under this [section] Subsection (4) in an amount [greater than 50% of the cost of replacing the] that exceeds:

—— (i) the maximum amount established by the division in rule, as provided in Subsection (6), for each square foot of lawn or turf with [drought resistant] water efficient landscaping[.];  
or

—— (ii) the maximum aggregate amount established by the division in rule, as provided in Subsection (6):

—— (5) To implement regional-based water efficiency standards as required by Subsection (4)(c)(ii), a municipality or county located within the Great Salt Lake basin shall adopt by ordinance the following water efficiency standards applicable to new construction in addition to the standards adopted by the division under Subsection (6)(d):

—— (a) a person may not:

—— (i) install or maintain lawn or turf within:

—— (A) a parkstrip;

—— (B) an area that is less than eight feet in width; or

—— (C) the interior of a parking lot;

—— (ii) install or maintain lawn or turf within a public or private road or highway, including in medians or roundabouts;

—— (iii) use a sprinkler zone to provide overhead spray irrigation for lawn or turf to be shared with an area that does not have lawn or turf; or

—— (iv) install or maintain lawn or turf on more than:

—— (A) 35% of the front and side yard landscaped area of low density residential development; or

—— (B) 20% of the total landscaped area for all non-agricultural uses other than low density residential development, after deducting active recreation areas or special use areas;

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- ~~—— (b) a person may use overhead spray irrigation only on the portions of the landscaped area that has lawn or turf;~~
- ~~—— (c) a person shall:~~
  - ~~—— (i) limit an active recreation area to a size not larger than the reasonably anticipated need for the type of use the area is intended to accommodate; and~~
  - ~~—— (ii) when replacing lawn or turf, install landscaping that is not:~~
    - ~~—— (A) composed of a different type of lawn or turf; or~~
    - ~~—— (B) watered through the use of overhead spray irrigation; and~~
- ~~—— (d) the municipality or county shall adopt a method for the municipality or county to determine if an active recreation area meets the requirements of Subsection (5)(c)(i).~~
- ~~—— [(3)] (6) The division [may] shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:~~
  - ~~—— (a) establishing the process by which:~~
    - ~~—— (i) a district obtains a grant under Subsection (3); or~~
    - ~~—— (ii) an owner obtains an incentive under [this section; and] Subsection (4);~~
  - ~~—— (b) defining what constitutes [drought resistant] water efficient landscaping[.]; including what irrigation is used after conversion to water efficient landscaping;~~
  - ~~—— (c) establishing for funding under this section the maximum incentive from grant money allowable for each square foot of lawn or turf converted to water efficient landscaping or maximum aggregate amount; and~~
  - ~~—— (d) establishing for purposes of this section regional-based water use efficiency standards designed to reduce water consumption and conserve culinary and secondary water supplies.~~
- ~~—— (7) This section does not prohibit a municipality or county from adopting landscaping standards that would result in greater water efficiency than provided in this section or by division rule made under Subsection (6) if the standards do not conflict with this section or division rules.~~
- ~~—— (8) An incentive under this section may not be provided for the removal of lawn or turf from:~~
  - ~~—— (a) an agricultural operation; or~~
  - ~~—— (b) a golf course.~~

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~~Section 2. **Effective date.**~~

~~If approved by two-thirds of all the members elected to each house, this bill 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.~~

~~Section 3. **Coordinating H.B. 272 with S.B. 118 -- Substantive amendments.**~~

~~If this H.B. 272 and S.B. 118, Water Efficient Landscaping Incentives, both pass and become law, it is the intent of the Legislature that the amendments to Section 73-10-37 in this bill supersede the amendments to Section 73-10-37 in S.B. 118 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.~~

~~between the shoulders contiguous to the traveled way, including in a median or roundabout.~~