

Senator Scott D. Sandall proposes the following substitute bill:

WATER CONSERVATION AND AUGMENTATION

AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses the optimal use of water in the state.

Highlighted Provisions:

This bill:

▶ modifies the purposes for which money in the Water Infrastructure Restricted Account may be used;

▶ provides for transfer of certain loan payments from the Water Resources Conservation and Development Fund to the Water Infrastructure Restricted Account;

▶ codifies a grant program for agricultural water optimization, including:

- defining terms;
- creating the Agricultural Water Optimization Committee;
- providing powers and duties of the committee which includes rulemaking;
- directing the process by which grants are to be issued; and
- providing a sunset date;

▶ provides for public information and reporting regarding the grant program;

▶ addresses agricultural water optimization change applications and water savings;



- 26 ▶ repeals provisions related to the Agricultural Water Optimization Task Force; and
- 27 ▶ makes technical and conforming changes.

28 **Money Appropriated in this Bill:**

29 This bill appropriates in fiscal year 2024:

30 ▶ to General Fund Restricted – Agricultural Water Optimization Account, as a
31 one-time appropriation:

- 32 • from General Fund, One-time, \$170,000,000;

33 ▶ to General Fund Restricted – Agricultural Water Optimization Account, as a
34 one-time appropriation:

- 35 • from Federal Funds - American Rescue Plan, One-time, \$30,000,000;

36 ▶ to Department of Agriculture and Food – Resource Conservation, as a one-time
37 appropriation:

- 38 • from Agricultural Water Optimization Account, One-time, \$125,000,000;

39 ▶ to Department of Natural Resources – Water Resources Conservation and
40 Development Fund, as a one-time appropriation:

- 41 • From General Fund Restricted – Water Infrastructure Restricted Account,
42 One-time (\$5,000,000);

43 ▶ to Department of Natural Resources - Water Resources Conservation and
44 Development Fund, as an ongoing appropriation:

- 45 • From General Fund Restricted – Water Infrastructure Restricted Account,
46 \$50,000,000; and

47 ▶ to Department of Natural Resources – Water Resources:

- 48 • From General Fund Restricted – Water Infrastructure Restricted Account,
49 One-time, \$5,000,000.

50 **Other Special Clauses:**

51 This bill provides a special effective date.

52 **Utah Code Sections Affected:**

53 AMENDS:

54 **63I-1-273**, as last amended by Laws of Utah 2022, Chapters 68, 79

55 **73-10-25**, as last amended by Laws of Utah 1991, First Special Session, Chapter 4

56 **73-10g-103**, as enacted by Laws of Utah 2015, Chapter 458

57 **73-10g-104**, as last amended by Laws of Utah 2016, Chapter 309

58 **73-10g-204**, as last amended by Laws of Utah 2022, Chapter 79

59 ENACTS:

60 **73-10g-203.5**, Utah Code Annotated 1953

61 **73-10g-205**, Utah Code Annotated 1953

62 **73-10g-206**, Utah Code Annotated 1953

63 **73-10g-207**, Utah Code Annotated 1953

64 **73-10g-208**, Utah Code Annotated 1953

65 REPEALS:

66 **73-10g-202**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

67 **73-10g-203**, as last amended by Laws of Utah 2020, Chapter 33



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

70 Section 1. Section **63I-1-273** is amended to read:

71 **63I-1-273. Repeal dates: Title 73.**

72 (1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed

73 January 1, 2031.

74 (2) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1,
75 2028.

76 [~~(2) In relation to Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, on~~
77 ~~July 1, 2025;~~]

78 [~~(a) Section **73-10g-202** is repealed; and~~]

79 [~~(b) Section **73-10g-203** is repealed.~~]

80 (3) Section **73-18-3.5**, which authorizes the Division of Outdoor Recreation to appoint
81 an advisory council that includes in the advisory council's duties advising on boating policies,
82 is repealed July 1, 2024.

83 (4) Title 73, Chapter 30, Great Salt Lake Advisory Council Act, is repealed July 1,
84 2027.

85 (5) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

86 (a) Subsection **73-1-4(2)(e)(xi)** is repealed;

87 (b) Subsection **73-10-4(1)(h)** is repealed; and

88 (c) Title 73, Chapter 31, Water Banking Act, is repealed.

89 Section 2. Section 73-10-25 is amended to read:

90 **73-10-25. Contents of fund -- Investment -- Contributions.**

91 (1) The Water Resources Conservation and Development Fund consists of:

92 (a) money appropriated to it by the Legislature;

93 (b) money received from the sale of project water and power, less operating and
94 maintenance costs;

95 (c) annual payments on contracts for projects constructed under Section 73-10-24 or
96 the State Water Conservation Program; and

97 (d) other money or tax revenues designated by the Legislature to be credited to the
98 Water Resources Conservation and Development Fund.

99 (2) ~~[All money]~~ Money deposited into the Water Resources Conservation and
100 Development Fund shall be invested by the state treasurer with interest accruing to the Water
101 Resources Conservation and Development Fund, except for payments, if any, necessary to
102 comply with Section 148(f), Internal Revenue Code of 1986.

103 (3) ~~[Contributions]~~ A contribution of money, property, or equipment may be received
104 from ~~[any]~~ a political subdivision of the state, federal agency, water users' association, or
105 person~~[, or corporation]~~ for use in carrying out the purposes of Section 73-10-24.

106 (4) Notwithstanding Subsection (1), the division shall transfer a payment on a loan to
107 the Water Infrastructure Restricted Account, created in Section 73-10g-103, if the loan:

108 (a) is issued from the Water Resources Conservation and Development Fund on or
109 after July 1, 2023; and

110 (b) relates to a project described in Subsection 73-10g-104(4).

111 Section 3. Section 73-10g-103 is amended to read:

112 **73-10g-103. Creation of the Water Infrastructure Restricted Account.**

113 (1) (a) There is created a restricted account in the General Fund known as the "Water
114 Infrastructure Restricted Account."

115 (b) The restricted account shall earn interest.

116 (2) The restricted account consists of money generated from the following sources:

117 (a) voluntary contributions made to the division for the construction, operation, or
118 maintenance of state water projects;

119 (b) appropriations made to the [~~fund~~] restricted account by the Legislature; [~~and~~]

120 (c) interest earned on the restricted account[-]; and

121 (d) money transferred to the restricted account under Section 73-10-25.

122 (3) Subject to appropriation, the division and the board shall manage the restricted

123 account created in Subsection (1) in accordance with this chapter.

124 Section 4. Section **73-10g-104** is amended to read:

125 **73-10g-104. Authorized use of the Water Infrastructure Restricted Account.**

126 Money in the restricted account is to be used for:

127 (1) the development of the state's undeveloped share of the Bear and Colorado rivers,
128 pursuant to existing interstate compacts governing both rivers as described in Chapter 26, Bear
129 River Development Act, and Chapter 28, Lake Powell Pipeline Development Act;

130 (2) repair, replacement, or improvement of federal water projects for local sponsors in
131 the state [~~of Utah~~] when federal funds are not available; [~~and~~]

132 (3) study and development of rules, criteria, targets, processes, and plans, as described
133 in Subsection 73-10g-105(3)[-]; and

134 (4) a project that benefits the Colorado River drainage in Utah, including projects for
135 water reuse, desalinization, building of dams, or water conservation, if a county or municipality
136 that benefits from the project:

137 (a) requires a new residential subdivision follow the regional conservation level of .59
138 acre-feet regardless of whether the outside water is potable, reuse, or secondary water;

139 (b) adopts and implements the local water conservancy district's emergency drought
140 contingency plan;

141 (c) adopts and implements the local water conservancy district's grass rebate program's
142 maximum grass restrictions;

143 (d) prohibits grass in new retail, industrial, or commercial facility landscaping;

144 (e) has reuse water be managed by the local water conservancy district;

145 (f) does not withdraw water from an aquifer in excess of the safe yield of the aquifer as
146 defined in Section 73-5-15;

147 (g) adopts and implements excess water use surcharges;

148 (h) prohibits private water features in new development, such as a fountain, pond, or
149 ski lake; and

150 (i) prohibits large grassy areas in new development, unless the large grassy area is open
151 to the general public.

152 Section 5. Section **73-10g-203.5** is enacted to read:

153 **73-10g-203.5. Definitions.**

154 As used in this part:

155 (1) "Account" means the Agricultural Water Optimization Account created in Section
156 73-10g-204.

157 (2) "Agricultural water optimization" means the implementation of agricultural and
158 water management practices that maintain viable agriculture while reducing water depletion to
159 enhance water availability and minimize impacts on water supply, water quality, and the
160 environment.

161 (3) "Change application" means an application filed under Section 73-3-3.

162 (4) "Committee" means the Agricultural Water Optimization Committee created in
163 Section 73-10g-205.

164 (5) "Conservation commission" means the conservation commission created in Section
165 4-18-104.

166 (6) "Department" means the Department of Agriculture and Food.

167 (7) "Depletion reduction" means a net decrease in water consumed accomplished by
168 implementing water optimization practices during beneficial use of water under an approved
169 water right.

170 (8) "Diversion reduction" means a decrease in net diversion amount from that allowed
171 under a water right accomplished by implementation of water optimization practices.

172 (9) "Funding application" means an application filed under Section 73-10g-206.

173 (10) "Saved water" means the water quantified as depletion reduction or diversion
174 reduction in a final order approving a change application filed in conjunction with an
175 agricultural water optimization project.

176 Section 6. Section **73-10g-204** is amended to read:

177 **73-10g-204. Agricultural Water Optimization Account.**

178 ~~[(1) As used in this section:]~~

179 ~~[(a) "Account" means the Agricultural Water Optimization Account created in~~
180 ~~Subsection (2).]~~

181 ~~[(b) "Agricultural water optimization" means the implementation of agricultural and~~
182 ~~water management practices that maintain or increase viable agriculture while minimizing~~
183 ~~negative impacts on water supply, water quality, and the environment.]~~

184 ~~[(c) "Department" means the Department of Agriculture and Food.]~~

185 ~~[(2)]~~ (1) There is created a restricted account within the General Fund called the
186 "Agricultural Water Optimization Account."

187 ~~[(3)]~~ (2) The account consists of:

- 188 (a) appropriations from the Legislature;
- 189 (b) federal funds; and
- 190 (c) grants or donations from other public or private sources.

191 ~~[(4)]~~ (3) Subject to appropriation, the ~~[department]~~ conservation commission may use
192 money in the account to issue grants in accordance with Section 73-10g-206 to improve
193 agricultural water optimization.

194 ~~[(5)]~~ (4) Until December 31, 2024, the department may loan up to \$3,000,000 of
195 General Fund money in the account to the Agriculture Resource Development Fund, subject to
196 the conditions described in Section 4-18-106.

197 ~~[(6)]~~ (5) (a) The department shall maintain the ~~[Agriculture Water Optimization~~
198 ~~Account]~~ account and record ~~[all]~~ the debits and credits made to the account by the department.

199 (b) The Office of the Treasurer shall deposit interest and other earnings derived from
200 investment of money in the ~~[Agriculture Water Optimization Account]~~ account into the
201 account.

202 (6) The department and the Department of Natural Resources may use money in the
203 account for the administration of this part, except that the aggregate amount expended under
204 this Subsection (6) may not exceed 1.5% of the money appropriated to the grant program
205 described in Section 73-10g-206.

206 Section 7. Section **73-10g-205** is enacted to read:

207 **73-10g-205. Agricultural Water Optimization Committee.**

208 (1) There is created in the department a committee known as the "Agricultural Water
209 Optimization Committee" that consists of:

- 210 (a) the commissioner of the department, or the commissioner's designee;
- 211 (b) the director of the division, or the director's designee;

- 212 (c) the director of the Division of Water Rights, or the director's designee;
213 (d) the dean of the College of Agriculture and Applied Science from Utah State
214 University, or the dean's designee;
215 (e) one individual representing local conservation districts created by Title 17D,
216 Chapter 3, Conservation District Act, appointed by the executive director of the Department of
217 Natural Resources;
218 (f) one individual representing water conservancy districts, appointed by the executive
219 director of the Department of Natural Resources; and
220 (g) three Utah residents representing the interests of the agriculture industry appointed
221 by the executive director of the Department of Natural Resources.
222 (2) (a) An individual appointed under Subsection (1) shall serve for a term of four
223 years.
224 (b) Notwithstanding the requirements of Subsection (2)(a), the executive director of the
225 Department of Natural Resources shall, at the time of appointment or reappointment, adjust the
226 length of terms to ensure that the terms of appointed members are staggered so that
227 approximately half of the appointed members are appointed every two years.
228 (3) (a) The presence of five members constitutes a quorum.
229 (b) The vote of five members constitutes the transaction of business by the committee.
230 (c) The committee shall select one of the committee's members to be chair. The
231 committee may select a member to be vice chair to act in place of the chair:
232 (i) during the absence or disability of the chair; or
233 (ii) as requested by the chair.
234 (d) The committee shall convene at the times and places prescribed by the chair.
235 (4) A member may not receive compensation or benefits for the member's service, but
236 may receive per diem and travel expenses in accordance with:
237 (a) Section [63A-3-106](#);
238 (b) Section [63A-3-107](#); and
239 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
240 [63A-3-107](#).
241 (5) The department shall provide administrative support to the committee.
242 (6) The committee shall make rules, in accordance with Title 63G, Chapter 3, Utah

243 Administrative Rulemaking Act, establishing:

244 (a) eligibility requirements for a grant issued under Section 73-10g-206, except that the
245 eligibility requirements shall:

246 (i) require at least a match for grant money of 50% of the total costs;

247 (ii) consider the statewide need to distribute grant money;

248 (iii) require a grant recipient to construct or install and maintain one or more measuring
249 devices as necessary to comply with Section 73-5-4 and rules adopted by the Division of Water

250 Rights regarding installation, use, and maintenance of devices to measure water use and to

251 demonstrate water use in accordance with a project funded by a grant; and

252 (iv) require a grant recipient to report water diversion and use measurements to the
253 state engineer pursuant to Section 73-5-4 and rules made by the state engineer, in accordance

254 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for water measurement and
255 reporting;

256 (b) the process for applying for a grant issued under Section 73-10g-206; and

257 (c) preliminary screening criteria to be used by the department under Subsection
258 73-10g-206(2)(d).

259 (7) The committee shall, in coordination with the division:

260 (a) as of July 1, 2023, assume oversight of all remaining research and contracts of the
261 previous Agricultural Water Optimization Task Force activities;

262 (b) post research to address and account for farm economics at the enterprise and
263 community level that affects agricultural water optimization and encourage market behavior
264 that financially rewards agricultural water optimization practices;

265 (c) oversee research to identify obstacles to and constraints upon optimization of
266 agricultural water use, and to recommend management tools, technologies, and other

267 opportunities to optimize agricultural water use as measured at the basin level; and

268 (d) facilitate benefits for farmers who optimize water use and protect water quality.

269 (8) The committee shall comply with Section 73-10g-206 related to grants issued under
270 this part.

271 Section 8. Section 73-10g-206 is enacted to read:

272 **73-10g-206. Agricultural water optimization grants -- Demonstration of water**
273 **savings.**

- 274 (1) The conservation commission may issue a grant described in Subsection
275 73-10g-204(3) in accordance with the procedures in this section.
- 276 (2) (a) The committee shall establish funding application periods during which a
277 person may apply for a grant under this part.
- 278 (b) During a funding application period, a person may file a funding application with
279 the department for preliminary screening of eligibility to receive a grant under this part,
280 including requisite water savings.
- 281 (c) The department shall screen the funding applications for eligibility.
- 282 (d) If the department determines that an applicant meets eligibility requirements and
283 proposes water savings, the department shall provide the applicant preliminary approval.
- 284 (e) After receiving preliminary approval under Subsection (2)(d), the applicant shall
285 engage in a pre-filing consultation with the Division of Water Rights under Subsection
286 73-3-3(2) to determine whether a change application is required to accomplish the project
287 proposed in the funding application or to quantify saved water that may be made available for
288 beneficial use as part of the project.
- 289 (f) Once the Division of Water Rights determines whether the person is required to file
290 a change application, the person may complete the funding application process and file the
291 completed funding application with the committee.
- 292 (g) The committee shall review completed funding applications to rank the funding
293 applications and recommend to the conservation commission which applicants should receive a
294 grant under this part for the relevant funding application period.
- 295 (h) The conservation commission may issue a grant under this section only after receipt
296 of the recommendations of the committee.
- 297 (3) If the conservation commission issues a grant under this part, before the grant
298 recipient may receive the grant money, the grant recipient shall:
- 299 (a) enter into a contract with the department that includes:
- 300 (i) the expectations for the grant recipient;
- 301 (ii) the life expectancy of a project;
- 302 (iii) the process of certifying completion; and
- 303 (iv) design requirements;
- 304 (b) file any needed change application and obtain a final order from the state engineer

305 approving the change application, including any judicial review of the state engineer's order;
306 and

307 (c) demonstrate how the grant recipient shall comply with the requirements of the final
308 order approving the related change application.

309 (4) A grant recipient shall comply with the monitoring and reporting requirements
310 under the contract described in Subsection (3).

311 (5) The department shall:

312 (a) monitor the grant related activities of a grant recipient;

313 (b) certify a project funded by a grant once the project is complete;

314 (c) determine whether there are funding sources other than the account to fund the
315 grant; and

316 (d) provide information needed by the division or the Division of Water Rights to
317 fulfill the division's or the Division of Water Rights' statutory duties, including those
318 designated in this chapter.

319 (6) The department may:

320 (a) conduct outreach campaigns related to the grant program, including the program's
321 purpose and expectations for grant recipients;

322 (b) solicit funding applications and assist persons in applying for a grant under this
323 part;

324 (c) assist grant recipients in developing a project; and

325 (d) coordinate with federal agencies and the division for evaluation of funding
326 applications and for assistance with implementing projects for which funding has been
327 provided under this part.

328 (7) Grant money may be used by the department or a grant recipient for the hiring of
329 third-party consultants as appropriate to complete a project funded by grant money.

330 (8) The division, upon request from the committee, may assist with evaluation of
331 funding applications and implementation of projects funded under this part.

332 Section 9. Section **73-10g-207** is enacted to read:

333 **73-10g-207. Division public information and reporting.**

334 (1) The division shall, in coordination with the department and the Division of Water
335 Rights, annually compile and publish a report on:

- 336 (a) completed projects;
- 337 (b) saved water made available from agricultural water optimization projects; and
- 338 (c) the effectiveness of the agricultural water optimization funding programs
- 339 established by this part.

340 (2) On or before November 30 of each year, the committee, division, and the Division
341 of Water Rights shall jointly present the annual report to:

- 342 (a) the Legislative Water Development Commission;
- 343 (b) the Natural Resources, Agriculture, and Environment Interim Committee;
- 344 (c) the Utah Water Task Force within the Department of Natural Resources; and
- 345 (d) the Utah Watersheds Council.

346 (3) The division shall publish reports from research described in Subsection
347 73-10g-205(7).

348 Section 10. Section **73-10g-208** is enacted to read:

349 **73-10g-208. Water use pursuant to a water optimization change application.**

350 (1) A person entitled to file a change application under Section 73-3-3 may file a
351 change application in connection with an agricultural water optimization project, regardless of
352 whether the agricultural water optimization project is funded under this part:

- 353 (a) to change the nature of use of the depletion reduction amount of an agricultural
- 354 water right to saved water;
- 355 (b) to quantify saved water; and
- 356 (c) to allow beneficial use of saved water separate from the agricultural use, so long as
- 357 there is no enlargement of depletion or diversion amounts.

358 (2) Saved water, including depletion reduction and diversion reduction, is considered
359 beneficial use as required by Sections 73-1-3 and 73-3-1.

360 (3) The state engineer may make rules as provided under Section 73-2-1 and Title 63G,
361 Chapter 3, Utah Administrative Rulemaking Act, regarding implementation of this section.

362 Section 11. **Repealer.**

363 This bill repeals:

364 Section **73-10g-202, Agricultural Water Optimization Task Force.**

365 Section **73-10g-203, Duties of the task force.**

366 Section 12. **Appropriation.**

367 The following sums of money are appropriated for the fiscal year beginning July 1,
368 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for
369 fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
370 Act, the Legislature appropriates the following sums of money from the funds or accounts
371 indicated for the use and support of the government of the state of Utah.

372 ITEM 1

373 To General Fund Restricted – Agricultural Water Optimization Account

374 From General Fund, One-time 170,000,000

375 From Federal Funds - American Rescue Plan, One-time 30,000,000

376 Schedule of Programs:

377 Agricultural Water Optimization Account 200,000,000

378 The Legislature intends that funds appropriated by this item from the American Rescue
379 Plan Act may only be expended or distributed for purposes that comply with the
380 legal requirements and federal guidelines under the American Rescue Plan Act of 2021.
381 Additionally, the Legislature intends that the agency administering these funds meet all
382 compliance and reporting requirements associated with these funds, as directed by the
383 Governor's Office of Planning and Budget.

384 ITEM 2

385 To Department of Agriculture and Food – Resource Conservation

386 From Agricultural Water Optimization Account, One-time 125,000,000

387 Schedule of Programs:

388 Water Quantity 125,000,000

389 The Legislature intends that the \$125,000,000 one-time from the Agricultural Water
390 Optimization Account provided by this item be expended as follows:

391 (1) \$25,000,000 on general water optimization;

392 (2) \$25,000,000 on subsurface drip irrigation;

393 (3) \$25,000,000 on surge irrigation;

394 (4) \$25,000,000 on delivery, measurement, and reporting of water use data, including
395 telemetry; and

396 (5) \$25,000,000 on canal improvements.

397 ITEM 3

398 To Department of Natural Resources – Water Resources Conservation and Development Fund
 399 From General Fund Restricted – Water Infrastructure
 400 Restricted Account, One-time (5,000,000)
 401 From General Fund Restricted – Water Infrastructure
 402 Restricted Account 50,000,000
 403 Schedule of Programs:
 404 Water Resources Conservation and Development Fund 45,000,000

405 The Legislature intends that:
 406 (1) the ongoing funding from the Water Infrastructure Restricted Account provided in
 407 this item be expended as loans for projects that benefit the Colorado River drainage in Utah,
 408 including projects for water reuse, dam construction, desalination, and other conservation
 409 projects; and
 410 (2) repayments of loans described in Subsection (1) be transferred to the Water
 411 Infrastructure Restricted Account as outlined under Section 73-10-25.

412 ITEM 4

413 To Department of Natural Resources – Water Resources
 414 From General Fund Restricted – Water Infrastructure
 415 Restricted Account, One-time 5,000,000
 416 Schedule of Programs:
 417 Construction 5,000,000

418 The Legislature intends that the \$5,000,000 provided by this item be expended as a grant for
 419 construction related to the Hyrum Reservoir.

420 **Section 13. Effective date.**
 421 This bill takes effect on July 1, 2023.