

HB0280S01 compared with HB0280

~~text~~ shows text that was in HB0280 but was deleted in HB0280S01.

inserted text shows text that was not in HB0280 but was inserted into HB0280S01.

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Representative Casey Snider proposes the following substitute bill:

WATER RELATED CHANGES

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: {} Casey Snider

Senate Sponsor: {} _____

LONG TITLE

General Description:

This bill addresses issues related to water.

Highlighted Provisions:

This bill:

- ▶ provides for the application of planning and prioritization to water funds and accounts;
- ▶ modifies provisions related to the formulation of a state water plan;
- ▶ amends provisions related to the Water Infrastructure Restricted Account;
- ▶ authorizes rulemaking authority;
- ▶ requires the Board of Water Resources to impose a water use fee;
- ▶ requires the Board and Division of Water Resources ~~to impose a water use fee and~~ to study the fee and consolidation of funds and accounts;

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- ▶ creates the Water Infrastructure Fund;
- ▶ modifies provisions of the Watershed Councils Act;
- ▶ modifies provisions related to the Water Development Coordinating Council;
- ▶ enacts planning and prioritization provisions, including:
 - defining terms;
 - requiring a unified water infrastructure plan;
 - providing for ranking and prioritizing of water infrastructure projects;
 - addressing duties; and
 - requiring reserve studies and capital asset management; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

~~(None)~~ This bill appropriates in fiscal year 2025:

- ▶ to Department of Natural Resources - Water Infrastructure Fund as a one-time appropriation:
 - from the General Fund, One-time, \$5,000,000

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-10-1, as last amended by Laws of Utah 2020, Chapter 354

73-10-5, as last amended by Laws of Utah 1983, Chapter 320

73-10-6, as last amended by Laws of Utah 1988, Chapter 169

73-10-7, as Utah Code Annotated 1953

73-10-8, as last amended by Laws of Utah 2011, Chapter 342

73-10-22, as last amended by Laws of Utah 1995, Chapter 183

73-10-23, as last amended by Laws of Utah 2007, Chapter 306

73-10-24, as last amended by Laws of Utah 1988, Chapter 169

73-10-25, as last amended by Laws of Utah 2023, Chapter 261

73-10-25.1, as last amended by Laws of Utah 1996, Chapter 199

73-10-26, as last amended by Laws of Utah 2008, Chapter 267

73-10-27, as last amended by Laws of Utah 2012, Chapter 347

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73-10-29, as last amended by Laws of Utah 1988, Chapter 169

73-10-30, as last amended by Laws of Utah 2011, Chapter 342

73-10-31, as enacted by Laws of Utah 1996, Chapter 199

73-10c-3, as last amended by Laws of Utah 2023, Chapter 238

73-10c-4, as last amended by Laws of Utah 2007, Chapter 142

73-10c-4.1, as last amended by Laws of Utah 2008, Chapter 382

73-10c-4.2, as last amended by Laws of Utah 2008, Chapter 382

73-10c-5, as last amended by Laws of Utah 2011, Chapter 342

73-10g-102, as enacted by Laws of Utah 2015, Chapter 458

73-10g-103, as last amended by Laws of Utah 2023, Chapter 261

73-10g-104, as last amended by Laws of Utah 2023, Chapter 261

73-10g-105, as last amended by Laws of Utah 2020, Chapter 28

73-10g-301, as enacted by Laws of Utah 2020, Chapter 309

73-10g-302, as enacted by Laws of Utah 2020, Chapter 309

73-10g-304, as last amended by Laws of Utah 2022, Chapter 65

73-10g-305, as enacted by Laws of Utah 2020, Chapter 309

73-10g-306, as enacted by Laws of Utah 2020, Chapter 309

73-20-8, as last amended by Laws of Utah 1988, Chapter 169

ENACTS:

73-10g-105.5, Utah Code Annotated 1953

73-10g-107, Utah Code Annotated 1953

73-10g-108, Utah Code Annotated 1953

73-10g-601, Utah Code Annotated 1953

73-10g-602, Utah Code Annotated 1953

73-10g-603, Utah Code Annotated 1953

73-10g-604, Utah Code Annotated 1953

73-10g-605, Utah Code Annotated 1953

REPEALS AND REENACTS:

73-10-15, as last amended by Laws of Utah 1967, Chapter 176

REPEALS:

73-10-17, as enacted by Laws of Utah 1963, Chapter 178

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

Section 1. Section 73-10-1 is amended to read:

73-10-1. State's policy -- Creation of revolving fund -- General construction of chapter.

(1) (a) The Legislature [~~of the state of Utah has heretofore declared~~] declares:

(i) by Section 73-1-1[~~, Utah Code Annotated 1953,~~] that[~~;~~] "All waters in this state, whether above or under the ground, are hereby declared to be the property of the public, subject to all existing rights to the use thereof";

(ii) by Section 73-1-3[~~, Utah Code Annotated 1953,~~] that "Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state"; and

(iii) by Section 17B-2a-1002 that the policy of the state is, to " obtain from water in the state the highest duty for domestic uses and irrigation of lands in the state within the terms of applicable interstate compacts and other law."

(b) The Legislature by this chapter reiterates and reaffirms such declaration of the public policy of the state [~~of Utah~~].

(2) It is further declared to be the policy of this chapter and of the state [~~of Utah~~], and the [~~legislature~~] Legislature recognizes:

(a) that by construction of projects based upon sound engineering the waters within the various counties of the state [~~of Utah~~] can be saved from waste and increased in efficiency of beneficial use by 25% to 100%;

(b) that because of well-known conditions such as low prices and lack of market for farm products, particularly the inefficiency of water supply because of lack of late season water and consequent lack of financial strength, water users in small communities have been unable to build projects that would provide full conservation and beneficial use for the limited water supply in this semiarid land;

(c) that water, as the property of the public, should be so managed by the public that it can be put to the highest use for public benefit;

(d) that Congress of the United States has provided for the building of larger water conservation projects throughout the semiarid states, payment of the capital costs without interest to be made by the water users upon the basis of a fair portion of crop returns;

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(e) that the Congress of the United States has established in the department of interior and in the department of agriculture, various agencies having authority to develop, protect, and aid in putting to beneficial use the land and water resources of the United States and to cooperate with state agencies having similar authority;

(f) that the interests of the state [~~of Utah~~] require that means be provided for close cooperation between all state and federal agencies to the end that the underground waters and waters of the small streams of the state, and the lands thereunder, can be made to yield abundantly and increase the income and well-being of the citizens of the state; and

(g) that it appears to be sound public policy for the state [~~of Utah~~] to provide a revolving fund, to be increased at each legislative session, to the end that every mountain stream and every water resource within the state can be made to render the highest beneficial service, such fund to be so administered that [~~no project will~~] a project may not be built:

(i) except upon expert engineering, financial, and geological approval[~~:-~~]; and

(ii) for water infrastructure projects, subject to prioritization under Chapter 10g, Part 6, Planning and Prioritization.

(3) [~~All of the provisions of this~~] This chapter shall be liberally construed so as to carry out and put into force and effect the purposes and policies as [~~hereinabove~~] set forth in this section.

Section 2. Section **73-10-5** is amended to read:

73-10-5. Selection of project by board -- Preparation of plans and estimate of cost -- Contracts by board.

[~~When a~~]

(1) The Board of Water Resources shall cause plans and cost estimates to be prepared for a project when the project to be constructed;

(a) is funded with money made available from the funds created by Section 73-10-8 [~~has been selected by the board, which in its opinion, will conserve~~];

(b) is prioritized under Chapter 10g, Part 6, Planning and Prioritization; and

(c) in the opinion of the Board of Water Resources, will result in the wise use of the water resources of this state for the best interests of the citizens of the state[~~, the board shall cause plans and cost estimates of such project to be prepared. Such~~].

(2) (a) The Board of Water Resources shall refer the plans and cost estimates [~~shall~~

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~~then be referred~~] described in Subsection (1) to the director of the Division of Finance who shall determine whether ~~[or not]~~ funds are available for the construction of the project.

(b) If the director of the Division of Finance approves the project so far as the availability of ~~[funds]~~ money is concerned, the ~~[Utah water and power board]~~ Board of Water Resources shall then enter into a contract or contracts for the construction of the project. ~~[Such]~~

(c) The contracts ~~[shall not be]~~ described in Subsection (2)(b) are not binding upon the state until approved by the director of the Division of Finance from the standpoint of whether ~~[or not]~~:

(i) the cost of the work is reasonable; and ~~[whether]~~

(ii) the contract has been entered into under the terms and conditions most advantageous to the state.

Section 3. Section **73-10-6** is amended to read:

73-10-6. Making water available to citizens of state -- Assessment of charges against water users -- Water Resources Construction Fund.

(1) ~~[The]~~ Subject to Chapter 10g, Part 6, Planning and Prioritization, the Board of Water Resources may make available for the use of the citizens of the state who are, in ~~[its]~~ the Board of Water Resources' opinion, best able to ~~[utilize]~~ use the same, any or all water and power ~~[conserved]~~ made available by any of the projects to which the state may have title and may enter into contracts for the use of ~~[said]~~ the water and power with individuals or with organizations composed of citizens of the state ~~[of Utah]~~.

(2) (a) The ~~[board]~~ Board of Water Resources may assess against any person using such water and power such charges as, in the opinion of the ~~[board]~~ Board of Water Resources, are necessary and reasonable for the maintenance of the project and return to the state the actual costs of the project over ~~[such]~~ the term of years as the ~~[board may deem it]~~ Board of Water Resources may consider advisable.

(b) Any amount collected as charges over and above the amount necessary to maintain any particular project shall become part of the Water Resources Construction Fund.

Section 4. Section **73-10-7** is amended to read:

73-10-7. Title to projects -- Contractual powers of board.

(1) ~~[Title]~~ Subject to Chapter 10g, Part 6, Planning and Prioritization, title of all projects constructed with funds made available by Section 73-10-8 ~~[hereof]~~ under the terms of

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this ~~[act]~~ chapter shall become vested in the state ~~[of Utah]~~.

(2) The ~~[board is empowered to]~~ Board of Water Resources may enter into contracts ~~[which are, in its]~~ that are, in the Board of Water Resources' opinion, necessary for the maintenance and continued operation of [such] the projects described in Subsection (1).

Section 5. Section 73-10-8 is amended to read:

73-10-8. Water Resources Construction Fund -- Creation and contents of fund -- Use -- Investigation Account created -- Interest -- Retainage -- Loans and grants for dam safety work.

(1) There is created the Water Resources Construction Fund, which consists of:

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

(b) money from the sale or management of the 500,000 acres of land selected for the establishment of reservoirs under Section 12 of the Utah Enabling Act;

(c) charges assessed against water and power users pursuant to Section 73-10-6; and

(d) interest accrued pursuant to Subsection (5).

(2) ~~[The board]~~ Subject to Chapter 10g, Part 6, Planning and Prioritization, the Board of Water Resources may authorize the use of money in the fund for the following purposes:

(a) to develop water conservation projects, including paying the costs of construction, engineering, investigation, inspection, and other related expenses;

(b) to provide loans and grants to dam owners to conduct dam safety studies;

(c) to provide loans and grants to dam owners:

(i) to upgrade dams in conformance with the minimum standards established by the state engineer in rules; or

(ii) for nonstructural solutions developed to meet minimum standards or lower hazard ratings that are approved by the state engineer, including the purchase of habitable structures, purchase of flood easements, and installation of early warning systems; or

(d) as otherwise provided by law.

(3) The ~~[board]~~ Board of Water Resources may provide for the repayment of the costs of investigation, engineering, and inspection out of the first money to be paid under a contract for the construction of a water project. The money repaid shall be deposited into a subaccount within the Water Resources Construction Fund known as the ~~(the)~~ Investigation Account, "Investigation Account," to be used by the ~~[board]~~ Board of Water Resources for the purpose

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of making investigations for the development and use of the water resources of the state.

(4) Contributions of money, property, or equipment may be received from ~~[any]~~ a political subdivision of the state, federal agency, water users' association, person, or corporation for use in making investigations, constructing projects, or otherwise carrying out the purposes of this section.

(5) ~~[All money]~~ Money deposited into the Water Resources Construction Fund shall be invested by the state treasurer with interest accruing to the Water Resources Construction Fund.

(6) If any payment on a contract with a private contractor to construct a project funded by the Water Resources Construction Fund is retained or withheld, ~~[it]~~ the payment shall be retained or withheld and released as provided in Section 13-8-5.

(7) Loans to dam owners for dam safety studies and to upgrade dams in conformance with minimum standards shall be secured by taking water rights associated with the dam.

(8) The following restrictions apply to ~~[any]~~ a grant made to a dam owner for a dam safety study:

(a) only a nonprofit mutual irrigation company or a water users association is eligible to receive a grant;

(b) the dam safety study shall be required by the state engineer pursuant to Section 73-5a-503; and

(c) the amount of any grant shall be limited to up to 50% of the costs of the dam safety study.

(9) (a) ~~[The board]~~ Subject to Chapter 10g, Part 6, Planning and Prioritization, the Board of Water Resources may provide grants to mutual irrigation companies and water users associations to upgrade dams in conformance with minimum standards of the state engineer. ~~[Each]~~ A grant authorized by the [board] Board of Water Resources for the upgrade of a dam of a mutual irrigation company or water users association in conformance with the minimum standards shall be sufficient to pay for 80% of the costs to upgrade the dam.

(b) (i) Pursuant to guidelines specified in Subsection (9)(b)(ii) and subject to Chapter 10g, Part 6, Planning and Prioritization, the [board] Board of Water Resources may provide loans or grants, or both, to entities other than mutual irrigation companies and water users associations to upgrade dams in conformance with minimum standards of the state engineer.

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(ii) In determining the type of financial assistance to be provided to an entity other than a mutual irrigation company or water users association, the ~~[board]~~ Board of Water Resources shall consider the dam owner's ability to pay and may consider other factors including:

- (A) the degree of hazard;
- (B) the threat to public safety;
- (C) the state engineer's priority list of dams;
- (D) the cost effectiveness of the restoration;
- (E) the number of potential and actual applications for financial assistance; and
- (F) the funds available.

(10) The amount of money in the fund that may be used for grants for dam safety studies shall be limited to the amount of money appropriated to the fund for that purpose.

(11) ~~[The board]~~ Subject to Chapter 10g, Part 6, Planning and Prioritization, the Board of Water Resources shall consult with the state engineer in establishing a priority list of dams to be upgraded with money in the fund.

(12) A dam owner who has initiated or completed construction approved by the state engineer to upgrade the dam in conformance with minimum standards may apply for a grant or loan from the ~~[board]~~ Board of Water Resources as reimbursement for those construction expenditures.

Section 6. Section **73-10-15** is repealed and reenacted to read:

73-10-15. State water plan -- Entities to cooperate in formulation of plan.

(1) As used in this section:

(a) "Division" means the Division of Water Resources created under Section 73-10-18.

(b) "State water plan" means a comprehensive framework that identifies available water resources, recommends strategies for water resource optimization, and guides efforts to manage available water supplies.

(2) (a) ~~{The}~~ Beginning on or before December 31, 2026, the division shall ~~{formulate}~~ publish a state water plan that:

(i) ~~{at a minimum}~~ is consistent with the state water policy established in Section 73-1-21;

(ii) references the state unified water infrastructure plan created by the Water Development Coordinating Council under Section 73-10g-602;

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~~(iii)~~ iii) fosters communities and businesses;

~~(iiii)~~ iv) facilitates local agriculture;

~~(v)~~ v) addresses outdoor recreation; and

~~(vi)~~ vi) provides for a healthy environment.

(b) The state water plan may include recommendations for policy, fiscal support, implementation of findings by governmental and private institutions, and public engagement.

(c) In formulating the state water plan, the division shall seek input from a wide range of stakeholders, including representatives from agriculture and other water dependent businesses, conservationists, recreation interests, government entities, academia, and Utah residents in general.

~~(d) The division shall update the state water plan no less frequently than every ten years.~~

(3) The following shall cooperate with the division in the formulation of the state water plan:

(a) the following state entities:

(i) the Governor's Office of Planning and Budget;

(ii) the Department of Agriculture and Food;

(iii) within the Department of Natural Resources:

(A) the Division of Water Rights;

(B) the Utah Geological Survey;

(C) the Division of Wildlife Resources;

(D) the Division of Forestry, Fire, and State Lands; and

(E) the Public Lands Policy Coordinating Office;

(iv) within the Department of Environmental Quality:

(A) the Division of Drinking Water; and

(B) the Division of Water Quality;

(v) the Office of the Great Salt Lake Commissioner;

~~(vi) the Utah Watersheds Council;~~ and

~~(vii)~~ vi) the Colorado River Authority of Utah;

(b) the following local entities:

(i) a water conservancy district created under Title 17B, Chapter 2a, Part 10, Water

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Conservancy District Act; and

(ii) a local watershed council created under Chapter 10g, Part 3, Watershed Councils Act; and

(c) any other state or local entity that the division considers necessary.

(4) A state entity identified in Subsection (3)(a) shall designate an individual to assist and advise the division in the formulation of a state water plan.

(5) The division shall use information, including water resources data, that has been or will be assembled by state entities, the United States government, various colleges and universities of the state, or any other source that can profitably contribute to the development of the state water plan.

(6) In accordance with this section, an entity described in Subsection (3) shall cooperate with the division unless the cooperation would directly impair the authority granted to the entity by statute.

(7) The Utah Watersheds Council shall advise the division concerning state water planning activities.

Section 7. Section **73-10-22** is amended to read:

73-10-22. Water Resources Cities Water Loan Fund -- Annual appropriation -- Interest.

(1) Beginning with the fiscal year ending June 30, 1978, the Legislature shall provide an annual appropriation from the General Fund from liquor control profits to the Board of Water Resources to make the loans provided for in Sections 73-10-20, 73-10-21, and 73-10-23 if prioritized under Chapter 10g, Part 6, Planning and Prioritization. The money appropriated by the Legislature shall be deposited in a fund known as the "Water Resources Cities Water Loan Fund."

(2) [~~All money~~] Money deposited into the Water Resources Cities Water Loan Fund shall be invested by the state treasurer with interest accruing to the Water Resources Cities Water Loan Fund.

Section 8. Section **73-10-23** is amended to read:

73-10-23. Loans for water systems -- Board of Water Resources authority -- Procedure.

(1) The Board of Water Resources [~~is authorized to~~] may make loans to cities, towns,

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metropolitan water districts, water conservancy districts, improvement districts, special improvement districts, or special service districts within the state for the acquisition or construction of new or existing water systems or the improvement or extension of those systems from ~~[funds]~~ money appropriated for the purpose of this chapter and prioritized under Chapter 10g, Part 6, Planning and Prioritization.

(2) (a) Cities, towns, or districts ~~[which]~~ that participate in this program shall submit an application for ~~[funds]~~ money to the Board of Water Resources.

(b) The application may request a loan to cover all or part of the cost of an eligible project.

(c) Requests for loans shall be submitted in a form and shall include information as the ~~[board]~~ Board of Water Resources prescribes.

(3) (a) The ~~[board]~~ Board of Water Resources shall establish criteria for determining eligibility for loans ~~[and shall determine appropriate priorities among projects]~~, except that the Board of Water Resources shall require compliance with Section 73-10g-605 to be eligible for a loan.

(b) ~~[Funds]~~ Money received from the repayment of loans shall be added to this special fund and be available for additional loans under the administration of the ~~[board]~~ Board of Water Resources.

~~[(c) In determining priorities for eligible projects, the board shall consider:]~~

~~[(i) probable growth of population due to actual or prospective economic development in an area;]~~

~~[(ii) possible additional sources of state and local revenue;]~~

~~[(iii) opportunities for expanded employment;]~~

~~[(iv) present or potential health hazards;]~~

~~[(v) water systems which do not meet minimum state standards;]~~

~~[(vi) cities, towns, or districts which have insufficient water to meet current demands;]~~

~~[(vii) feasibility and practicality of the project;]~~

~~[(viii) per capita cost of the project;]~~

~~[(ix) per capita income of the residents in the area;]~~

~~[(x) the borrowing capacity of the city, town, or district and its ability to sell bonds in the open market; and]~~

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~~[(xi) the availability of federal funds for the project.]~~

~~[(4) (a) The board shall consult with the Governor's Advisory Council on Community Affairs in the establishment of priorities but that advice is not binding upon the board.]~~

~~[(b)]~~ (4) If an application is rejected, the ~~[board]~~ Board of Water Resources shall notify the applicant stating the reasons for the rejection.

(5) The Board of Water Resources shall review the plans and specifications for the project ~~[prior to]~~ before approval and may condition approval and the availability of ~~[funds]~~ money on assurances the ~~[board]~~ Board of Water Resources considers necessary to ensure that the proceeds of the loan will be used to pay the cost of the project and that the project will be completed.

(6) Any loan shall specify the terms for repayment and may be evidenced by general obligation bonds, revenue bonds, special assessment bonds, or other bonds or obligations legally issued by the appropriate city, town, metropolitan water district, water conservancy district, improvement district, special improvement district, or special service district and purchased by the ~~[board]~~ Board of Water Resources pursuant to the authority for the issuance that exists at the time of the loan.

(7) (a) Upon approval of an application, the ~~[board]~~ Board of Water Resources shall advise the applicant and may provide ~~[funds]~~ money as a loan to cover all or part of the costs of eligible projects.

(b) Costs of an eligible project may include all costs of acquisition and construction as well as costs incurred for preliminary planning to determine the economic and engineering feasibility of a proposed project, the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary to the project and its financing; the cost of erection, building, acquisition, modification, improvement, or extension of water system facilities and the inspection and supervision of the construction of such facilities.

(8) ~~[No loan shall]~~ A loan may not include any project costs for which the applicant receives federal financial assistance, other than federal loans ~~[which]~~ that must be repaid by the applicant.

Section 9. Section **73-10-24** is amended to read:

73-10-24. Water Resources Conservation and Development Fund created.

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There is created a Water Resources Conservation and Development Fund to further enhance the state's ability to carry out the policy described in Section 73-10-1. The fund shall be administered by the Board of Water Resources and is subject to Chapter 10g, Part 6, Planning and Prioritization. The fund is a revolving fund established for the construction, operation, and maintenance of projects considered by the ~~[board]~~ Board of Water Resources to be outside the scope of financing by the Water Resources Construction Fund, as created by Section 73-10-8, and shall include~~[-but not be limited to,]~~ flood control projects.

Section 10. Section **73-10-25** is amended to read:

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

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

(a) money appropriated to it by the Legislature;

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

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

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

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

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

(4) Notwithstanding Subsection (1), the division shall transfer a payment on a loan issued subject to Chapter 10g, Part 6, Planning and Prioritization, to the Water Infrastructure Restricted Account, created in Section 73-10g-103, if the loan:

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

(b) relates to a project described in Subsection ~~73-10g-104(4)~~ 73-10g-104(2)(d) or a water infrastructure project prioritized under Chapter 10g, Part 6, Planning and

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Prioritization.

Section 11. Section **73-10-25.1** is amended to read:

73-10-25.1. Credit enhancement and interest buy-down agreements.

(1) The Board of Water Resources may enter into credit enhancement agreements with political subdivisions containing terms and provisions that the [~~board~~] Board of Water Resources determines will reasonably improve the security for or marketability of water project obligations financed using the Water Resources Cities Water Loan Fund created in Section 73-10-22 or the Water Resources Conservation and Development Fund created in Section 73-10-24. Credit enhancement agreements may include provisions for loans to political subdivisions to pay the costs of obtaining letters of credit or other forms of insurance or security to provide security for water project obligations.

(2) The Board of Water Resources may make loans or grants from the Water Resources Cities Water Loan Fund or the Water Resources Conservation and Development Fund to political subdivisions for interest buy-down agreements for water development projects subject to Chapter 10g, Part 6, Planning and Prioritization.

Section 12. Section **73-10-26** is amended to read:

73-10-26. Definitions -- Construction of a project by board -- Ownership and operation -- Transfer of a water right -- Purchase of a bond from an Indian tribe.

(1) As used in this section:

(a) "Board" means the Board of Water Resources created in Section 73-10-1.5.

(b) "Bond" means:

(i) a written obligation to repay borrowed money, whether denominated a bond, note, warrant, certificate of indebtedness, or otherwise; and

(ii) a lease agreement, installment purchase agreement, or other agreement that includes an obligation to pay money.

(c) "Division" means the Division of Water Resources created in Section 73-10-18.

(d) "Project" means a facility, works, or other real or personal property that:

(i) conserves or develops the water or hydroelectric power resources of the state; or

(ii) controls flooding.

(2) (a) The board, through the division, may construct a project.

(b) An electric public utility or a municipality of the state may construct an electrical

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facility incidental to a project.

(c) If the state constructs the electrical facility, the state must first offer the power and energy derived from the hydroelectric generating project to an electric public utility or municipality in the state for distribution to electric consumers.

(3) (a) The board, through the division, may consider a flood control project in the same manner and apply the same procedures and rules as the board would consider or apply to another project within its statutory authority.

(b) If funds controlled by the board are to be used for the flood control project, the planning of the project is subject to the review of the board.

(c) If the flood control project is authorized for construction, the plans, specifications, and construction supervision shall be undertaken as prescribed by the board.

(4) The board may enter into an agreement for the construction or financing of a project financed with money from the Water Resources Conservation and Development Fund with another state, the federal government, a political subdivision of the state, an Indian tribe, or a private corporation.

(5) (a) (i) Except as provided by Subsections (5)(a)(ii) and (b), title to a project, including a water right, constructed or acquired with money from the Water Resources Conservation and Development Fund is vested in the state.

(ii) The board may take a bond legally issued by the project sponsor in lieu of or in addition to taking title to the project and water right.

(b) If an Indian tribe sponsors a project, the board may take a bond legally issued by the tribe, to the extent that federal law allows the tribe to issue a bond, in lieu of taking title to the project and water right, if the tribe:

(i) waives the defense of sovereign immunity regarding the bond issue in an action arising out of the issuance or default under the bond; and

(ii) agrees in writing that it will not challenge state court jurisdiction over any litigation resulting from default on its obligation in the transaction.

(c) Before entering into an agreement with or purchasing a bond from a tribe, the board shall:

(i) require that the tribe obtain the written approval of the Secretary of the United States Department of the Interior or the secretary's designee to all aspects of the agreement or

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bond;

(ii) obtain a legal opinion from a recognized bond counsel certifying:

(A) that the tribe has legal authority to:

(I) enter into the agreement; or

(II) issue the bond;

(B) that the pledge of an asset or revenue by the tribe as security for the payments under the agreement or bond is a valid and legally enforceable pledge; and

(C) that the agreement or bond may be enforced in a court of general jurisdiction in the state; and

(iii) determine whether it has sufficient legal recourse against the tribe and against a security pledged by the tribe in the event of default.

(6) (a) The board may own and operate a project if:

(i) the project is consistent with the plan adopted by the board; and

(ii) in the opinion of the board the ownership and operation of the project by the board is in the best interest of the state.

(b) In the ownership and operation of a project referred to in Subsection (6)(a), the board shall use a water right held in its name under authority of Section 73-10-19.

(c) (i) The board may enter into a contract with another state, the federal government, a political subdivision of the state, an Indian tribe, or a private corporation for operation, maintenance, and administration of the project.

(ii) The board may pay the contracting agency a reasonable sum for operation, maintenance, and administration of the project.

(7) (a) The board may also:

(i) enter into an agreement in which title to a project is conveyed to a cooperating project sponsor after charges assessed against the project have been paid to the state in accordance with the terms of the construction agreement or amendment to the agreement;

(ii) make the water and power available to the state's citizens who are, in the board's opinion, best able to use the water and power:

(A) [~~that is conserved~~] made available by the project; and

(B) to which the state has title;

(iii) enter into a contract for the use of the water and power with an individual or an

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organization composed of the state's citizens; and

(iv) assess a reasonable fee against a person using water and power from a project.

(b) The amount collected over the amount to be returned to the state for payment of the principal, interest, and maintenance of the project shall be deposited in the Water Resources Conservation and Development Fund as established by Section 73-10-24.

(8) The board shall retain ownership of a water right used for a project owned and operated by the board unless:

(a) the water right originally held by a cooperating project sponsor is conveyed to the project sponsor upon payment to the state of charges assessed against the project in accordance with the terms of the construction agreement or an amendment to the agreement; or

(b) the board transfers an unperfected water right held by the board that is not being used in a state-owned project to a political subdivision of the state, an agency of the federal government, or a nonprofit water company.

(9) A transfer of the board's water right shall be made to the entity that is best able to use the water right for the benefit of the state's citizens.

Section 13. Section **73-10-27** is amended to read:

73-10-27. Definitions -- Bids and contracts -- Retainage.

(1) As used in this section:;

(a) "Board" means the Board of Water Resources created in Section 73-10-1.5.

(b) "Estimated cost" means the cost of the labor, material, and equipment necessary for construction of the contemplated project.

(c) "Lowest responsible bidder" means a licensed contractor:

(i) who:

(A) submits the lowest bid; and

(B) furnishes a payment bond and a performance bond under Sections 14-1-18 and 63G-6a-1103; and

(ii) whose bid:

(A) is in compliance with the invitation for a bid; and

(B) meets the plans and specifications.

~~[(2) In considering the priority for a project to be built or financed with funds made available under Section 73-10-24, the board shall give preference to a project that:]~~

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~~[(a) is sponsored by, or for the benefit of, the state or a political subdivision of the state;]~~

~~[(b) meets a critical local need;]~~

~~[(c) has greater economic feasibility;]~~

~~[(d) will yield revenue to the state within a reasonable time or will return a reasonable rate of interest, based on financial feasibility; and]~~

~~[(e) meets other considerations deemed necessary by the board, including wildlife management and recreational needs.]~~

~~[(3)(a) In determining the economic feasibility, the board shall establish a benefit-to-cost ratio for each project, using a uniform standard of procedure for all projects.]~~

~~[(b) In considering whether a project should be built, the benefit-to-cost ratio for each project shall be weighted based on the relative cost of the project.]~~

~~[(c) A project, when considered in total with all other projects constructed under this chapter and still the subject of a repayment contract, may not cause the accumulative benefit-to-cost ratio of the projects to be less than one to one.]~~

~~[(4) A project may not be built if the project is not:]~~

~~[(a) in the public interest, as determined by the board; or]~~

~~[(b) adequately designed based on sound engineering and geologic considerations.]~~

~~[(5)] (2) [In] Subject to Chapter 10g, Part 6, Planning and Prioritization, in preparing a project constructed by the board, the board shall:~~

~~(a) based on a competitive bid, award a contract for:~~

~~(i) a flood control project:~~

~~(A) involving a city or county; and~~

~~(B) costing in excess of \$35,000;~~

~~(ii) the construction of a storage reservoir in excess of 100 acre-feet; or~~

~~(iii) the construction of a hydroelectric generating facility;~~

~~(b) publish an advertisement for a competitive bid:~~

~~(i) at least once a week for three consecutive weeks in a newspaper with general circulation in the state, with the last date of publication appearing at least five days before the schedule bid opening; and~~

~~(ii) indicating that the board:~~

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- (A) will award the contract to the lowest responsible bidder; and
- (B) reserves the right to reject any and all bids;
- (c) readvertise the project in the manner specified in Subsection ~~[(5)(b)]~~ (2)(b) if the board rejects all of the initial bids on the project; and
- (d) keep an accurate record of all facts and representations relied upon in preparing the board's estimated cost for a project that is subject to the competitive bidding requirements of this section.

~~[(6)]~~ (3) If no satisfactory bid is received by the board upon the readvertisement of the project in accordance with Subsection ~~[(5)]~~ (2), the board may proceed to construct the project in accordance with the plan and specifications used to calculate the estimated cost of the project.

~~[(7)]~~ (4) If a payment on a contract with a private contractor for construction of a project under this section is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Section 14. Section **73-10-29** is amended to read:

73-10-29. Additional amounts allocated -- Repayment.

(1) The ~~[board]~~ Board of Water Resources, subject to Chapter 10g, Part 6, Planning and Prioritization, and in addition to the amount allocated to a project to cover the actual cost of construction, may:

(a) allocate to the project constructed by ~~[it]~~ the Board of Water Resources, under contract or otherwise, ~~[such]~~ the amounts as may be determined by ~~[it]~~ the Board of Water Resources for investigating, engineering, inspection, and other expenses~~[-]~~; and ~~[may]~~

(b) provide for the repayment of the ~~[same]~~ the expenses out of the first money repayable from the project under the contract for its construction~~[-, and such money so]~~.

(2) Money repaid under Subsection (1) shall be accounted for within the Water Resources Construction Fund, to be used by the ~~[board]~~ Board of Water Resources for the purpose of making investigations for the development of the water resources of the state.

Section 15. Section **73-10-30** is amended to read:

73-10-30. Construction in conjunction with Water Resources Construction Fund -- Supplemental financing.

(1) Projects authorized under this chapter may be constructed in participation with

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money from the Water Resources Construction Fund when authorized by the ~~[board]~~ Board of Water Resources and prioritized under Chapter 10g, Part 6, Planning and Prioritization.

(2) Projects specified by the Legislature to be financed by general obligation bonds of the state may receive supplemental financing from the Water Resources Conservation and Development Fund when needed and money is available.

Section 16. Section **73-10-31** is amended to read:

73-10-31. Allocation of funds for credit enhancement and interest buy-down agreements.

(1) ~~[Of]~~ Notwithstanding Chapter 10g, Part 6, Planning and Prioritization, of the combined expenditures from the Water Resources Cities Water Loan Fund and Water Resources Conservation and Development Fund authorized by the Board of Water Resources each year, at least 10% shall be allocated for credit enhancement and interest buy-down agreements.

(2) The requirement specified in Subsection (1) shall apply only so long as sales and use tax is transferred to the Water Resources Conservation and Development Fund as provided in Section 59-12-103.

Section 17. Section **73-10c-3** is amended to read:

73-10c-3. Water Development Coordinating Council created -- Purpose -- Members.

(1) (a) There is created within the Department of Natural Resources a Water Development Coordinating Council. The council is comprised of:

- (i) the director of the Division of Water Resources;
- (ii) the executive secretary of the Water Quality Board;
- (iii) the executive secretary of the Drinking Water Board;
- (iv) the director of the Housing and Community Development Division or the director's designee;
- (v) the state treasurer or the state treasurer's designee; ~~[and]~~
- (vi) the commissioner of the Department of Agriculture and Food, or the commissioner's designee~~;~~

~~;~~ [.]; and

(vii) an individual appointed by the governor with the advice and consent of the Senate

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who is:

(A) familiar with water infrastructure projects, including planning, financing, construction, or operation; and

(B) employed by a water conservancy district that is subject to the asset management criteria of Section 17B-2a-1010.

(b) The council shall choose a chair and vice chair from among the council's own members, ~~except the chair and vice chair shall~~ may not be from ~~{different departments}~~ the same department.

(c) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(2) The purposes of the council are to:

(a) coordinate the use and application of the ~~[funds]~~ money available to the state to give financial assistance to political subdivisions of this state so as to promote the conservation, development, treatment, restoration, and protection of the waters of this state;

(b) promote the coordination of the financial assistance programs administered by the state and the use of the financing alternative most economically advantageous to the state and its political subdivisions;

(c) promote the consideration by the Board of Water Resources, Drinking Water Board, and Water Quality Board of regional solutions to the water and wastewater needs of individual political subdivisions of this state;

(d) assess the adequacy and needs of the state and its political subdivisions with respect to water-related infrastructures and advise the governor and the Legislature on those funding needs; ~~[and]~~

(e) conduct reviews and reports on water-related infrastructure issues as directed by statute[-]; ~~[and]~~

(f) engage in planning and prioritization of water infrastructure projects in accordance with Chapter 10g, Part 6, Planning and Prioritization[-]; and

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(g) administer the Water Infrastructure Fund in accordance with Section 73-10g-108.

Section 18. Section 73-10c-4 is amended to read:

73-10c-4. Credit enhancement and interest buy-down agreements -- Loans or grants -- Hardship grants.

(1) ~~On~~ Subject to Chapter 10g, Part 6, Planning and Prioritization, on behalf of the state, the Water Quality Board and the Drinking Water Board may each enter into credit enhancement agreements with political subdivisions containing terms and provisions that the acting board determines will reasonably improve the security for or marketability of drinking water and wastewater project obligations, including any of the following:

(a) a term providing security for drinking water and wastewater project obligations, as provided in Subsection 73-10c-6(2)(b), by agreeing to purchase the drinking water or wastewater project obligations of, or to make loans to, political subdivisions from a subaccount of the security fund for the purpose of preventing defaults in the payment of principal and interest on drinking water and wastewater project obligations;

(b) a term making loans to political subdivisions to pay the cost of obtaining:

(i) letters of credit from banks, savings and loan institutions, insurance companies, or other financial institutions;

(ii) municipal bond insurance; or

(iii) other forms of insurance or security to provide security for drinking water and wastewater project obligations; and

(c) a term providing other methods and assistance to political subdivisions that are reasonable and proper to enhance the marketability of or security for drinking water and wastewater project obligations.

(2) (a) The Drinking Water Board and the Water Quality Board may each make loans from a security fund subaccount to political subdivisions to finance all or part of drinking water and wastewater project costs by following the procedures and requirements of Sections 73-10c-4.1 and 73-10c-4.2.

(b) These loans may only be made after credit enhancement agreements, interest buy-down agreements, and all other financing alternatives have been evaluated by the acting board and the acting board determines those options are unavailable or unreasonably expensive for the subdivision requesting assistance.

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(c) Loans may be made from the security fund subaccount at interest rates determined by the acting board.

(3) (a) The Drinking Water Board and the Water Quality Board may each make loans or grants from the security fund to political subdivisions for interest buy-down agreements for drinking water or wastewater project obligations.

(b) The Drinking Water Board may make loans or grants from the security account to political subdivisions for planning for drinking water projects.

(4) (a) Of the total amount of money annually available to the Drinking Water Board and Water Quality Board for financial assistance to political subdivisions, at least 10% shall be allocated by each board for credit enhancement and interest buy-down agreements.

(b) The requirement specified in Subsection (4)(a) shall apply only so long as sales and use tax is transferred to the Utah Wastewater Loan Program Subaccount and Drinking Water Loan Program Subaccount as provided in Section 59-12-103.

(5) To the extent money is available in the hardship grant subaccounts of the security fund, the Drinking Water Board and the Water Quality Board may each make grants to political subdivisions that meet the drinking water or wastewater project loan considerations respectively, but whose projects are determined by the granting board to not be economically feasible unless grant assistance is provided.

(6) The Drinking Water Board and Water Quality [~~Boards~~] Board may at any time transfer money out of their respective hardship grant subaccounts of the security fund to their respective loan program subaccounts.

(7) The Water Quality Board may make a grant from the Hardship Grant Program for Wastewater Projects Subaccount created in Subsection 73-10c-5(2)(c) for a nonpoint source project as provided by Section 73-10c-4.5 if:

(a) money is available in the subaccount; and

(b) the Water Quality Board determines that the project would not be economically feasible unless a grant were made.

Section 19. Section **73-10c-4.1** is amended to read:

73-10c-4.1. Wastewater projects -- Loan criteria and requirements -- Process for approval.

(1) The Water Quality Board shall review the plans and specifications for a wastewater

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project before approval of any loan and may condition approval on the availability of loan funds and on assurances that the Water Quality Board considers necessary to ensure that loan funds are used to pay the wastewater project costs and that the wastewater project is completed.

(2) (a) Each loan shall specify the terms for repayment, with the term, interest rate or rates, including a variable rate, and security as determined by the Water Quality Board.

(b) The loan may be evidenced by general obligation or revenue bonds or other obligations of the political subdivision.

(c) Loan payments made by a political subdivision shall be deposited in the Water Quality Security Subaccount as described in Section 73-10c-5.

(d) The loans are subject to ~~[the provisions of]~~ Title 63B, Chapter 1b, State Financing Consolidation Act.

(3) ~~[In]~~ Subject to Subsection 73-10c-5(6), in determining the priority for a wastewater project loan, the Water Quality Board shall consider:

(a) the ability of the political subdivision to obtain money for the wastewater project from other sources or to finance the project from its own resources;

(b) the ability of the political subdivision to repay the loan;

(c) whether or not a good faith effort to secure all or part of the services needed from the private sector of the economy has been made; and

(d) whether or not the wastewater project:

(i) meets a critical local or state need;

(ii) is cost effective;

(iii) will protect against present or potential health hazards;

(iv) is needed to comply with minimum standards of the federal Water Pollution Control Act, Title 33, Chapter 26, United States Code, or any similar or successor statute;

(v) is needed to comply with the minimum standards of Title 19, Chapter 5, Water Quality Act, or any similar or successor statute;

(vi) is designed to reduce the pollution of the waters of this state; and

(vii) meets any other consideration considered necessary by the Water Quality Board.

(4) In determining the cost effectiveness of a wastewater project the Water Quality Board shall:

(a) require the preparation of a cost-effective analysis of feasible wastewater treatment

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or conveyance alternatives capable of meeting state and federal water quality and public health requirements;

(b) consider monetary costs, including the present worth or equivalent annual value of all capital costs and operation, maintenance, and replacement costs; and

(c) ensure that the alternative selected is the most economical means of meeting applicable state and federal wastewater and water quality or public health requirements over the useful life of the facility while recognizing environmental and other nonmonetary considerations.

(5) A loan may not be made for a wastewater project that is not in the public interest as determined by the Water Quality Board.

Section 20. Section **73-10c-4.2** is amended to read:

73-10c-4.2. Drinking water projects -- Loan criteria and requirements -- Process for approval.

(1) The Drinking Water Board shall review the plans and specifications for a drinking water project before approval of any loan and may condition approval on the availability of loan funds and on the assurances that the Drinking Water Board considers necessary to ensure that loan funds are used to pay the drinking water project costs and that the drinking water project is completed.

(2) (a) Each loan shall specify the terms for repayment, with the term, interest rate or rates, including a variable rate, and security as determined by the Drinking Water Board.

(b) The loan may be evidenced by general obligation or revenue bonds or other obligations of the political subdivision.

(c) Loan payments made by a political subdivision shall be deposited in the Drinking Water Security Subaccount as described in Section 73-10c-5.

(d) The loans are subject to the provisions of Title 63B, Chapter 1b, State Financing Consolidation Act.

(3) ~~[In]~~ Subject to Subsection 73-10c-5(6), in determining the priority for a drinking water project loan, the Drinking Water Board shall consider:

(a) the ability of the political subdivision to obtain money for the drinking water project from other sources or to finance such project from its own resources;

(b) the ability of the political subdivision to repay the loan;

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(c) whether or not a good faith effort to secure all or part of the services needed from the private sector of the economy has been made; and

(d) whether or not the drinking water project:

(i) meets a critical local or state need;

(ii) is cost effective;

(iii) will protect against present or potential health hazards;

(iv) is needed to comply with minimum standards of the federal Safe Drinking Water Act, or any similar or successor statute;

(v) is needed to comply with the minimum standards of Title 19, Chapter 4, Safe Drinking Water Act, or any similar or successor statute; and

(vi) meets any other consideration considered necessary by the Drinking Water Board.

(4) In determining the cost effectiveness of a drinking water project the Drinking Water Board shall:

(a) require the preparation of a cost-effective analysis of feasible drinking water projects;

(b) consider monetary costs, including the present worth or equivalent annual value of all capital costs and operation, maintenance, and replacement cost; and

(c) ensure that the alternative selected is the most economical means of meeting applicable water quality or public health requirements over the useful life of the facility while recognizing environmental and other nonmonetary considerations.

(5) A loan may not be made for a drinking water project that is not in the public interest as determined by the Drinking Water Board.

Section 21. Section **73-10c-5** is amended to read:

73-10c-5. Water Development Security Fund created -- Water Quality Security and Drinking Water Security Subaccounts created -- Use -- Revolving loan funds -- Hardship grants.

(1) There is established an enterprise fund known as the Water Development Security Fund which includes the Water Quality Security Subaccount and the Drinking Water Security Subaccount.

(2) The Water Quality Security Subaccount consists of four subaccounts:

(a) the Utah Wastewater Loan Program Subaccount, which consists of:

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(i) money appropriated to the subaccount by the Legislature;
(ii) money received from the repayment of the principal of loans made by the Water Quality Board under Sections 73-10c-4 and 73-10c-6 from the Utah Wastewater Loan Program Subaccount; and

(iii) money deposited in the subaccount under any other law;

(b) the Utah State Revolving Fund for Wastewater Projects Subaccount, which consists of:

(i) money appropriated to the subaccount by the Legislature;

(ii) money received from the Utah Wastewater Loan Program Subaccount applied to meet match requirements for federal funds under 33 U.S.C.A. 1251 et seq., federal Clean Water Act;

(iii) money received from the repayment of loans made by the Water Quality Board under Section 73-10c-4 from the Utah State Revolving Fund for Wastewater Projects Subaccount;

(iv) money received from the repayment of loans made by the Water Quality Board under Section 73-10c-4.5;

(v) money deposited in the subaccount under any other law;

(vi) money received under and subject to the restrictions of 33 U.S.C.A. 1251 et seq., federal Clean Water Act, and which is eligible for use in state revolving loan funds established to meet the requirements of the act; and

(vii) all investment income derived from money in the Utah State Revolving Fund for Wastewater Projects Subaccount;

(c) the Hardship Grant Program for Wastewater Projects Subaccount, which consists of:

(i) money appropriated to the subaccount by the Legislature;

(ii) money received as interest payments on loans made by the Water Quality Board under Sections 73-10c-4 and 73-10c-6, from the Utah Wastewater Loan Program Subaccount;

(iii) money deposited in the subaccount under any other law;

(iv) the Hardship Grant Assessment charged to State Revolving Fund loan recipients;

and

(v) all investment income derived from money in the Utah Wastewater Loan Program

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Subaccount or the Hardship Grant Program for Wastewater Projects Subaccount; and

(d) the Water Quality Origination Fee Subaccount, which consists of the origination fee paid under Section 73-10c-10.

(3) The Drinking Water Security Subaccount consists of four subaccounts:

(a) the Drinking Water Loan Program Subaccount, which consists of:

(i) money appropriated to the subaccount by the Legislature;

(ii) money received from the repayment of the principal of loans made by the Drinking Water Board under Sections 73-10c-4 and 73-10c-6, from the Drinking Water Loan Program Subaccount; and

(iii) money deposited in the subaccount under any other law;

(b) the State Revolving Fund for Drinking Water Projects Subaccount, which consists of:

(i) money appropriated to the subaccount by the Legislature;

(ii) money received from the Utah Drinking Water Loan Program Subaccount and applied to meet match requirements for federal funds under 42 U.S.C.A. 300f et seq., federal Safe Drinking Water Act;

(iii) money received from the repayment of loans made by the Drinking Water Board under Section 73-10c-4 from the State Revolving Fund for Drinking Water Projects Subaccount;

(iv) money deposited in the subaccount under any other law;

(v) money received under and subject to the restrictions of 42 U.S.C.A. 300f et seq., federal Safe Drinking Water Act, and which is eligible for use in state revolving loan funds established to meet the requirements of the act; and

(vi) all investment income derived from money in the State Revolving Fund for Drinking Water Projects Subaccount;

(c) the Hardship Grant Program for Drinking Water Projects Subaccount, which consists of:

(i) money appropriated to the subaccount by the Legislature;

(ii) money received from interest payments on loans made by the Drinking Water Board under Sections 73-10c-4 and 73-10c-6, from the Drinking Water Loan Program Subaccount;

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(iii) money deposited in the subaccount under any other law;

(iv) the Hardship Grant Assessment charged to State Revolving Fund loan recipients;

and

(v) all investment income derived from money in the Drinking Water Loan Program Subaccount or the Hardship Grant Program for Drinking Water Projects Subaccount; and

(d) the Drinking Water Origination Fee Subaccount, which consists of the origination fee paid under Section 73-10c-10.

(4) State money in the Water Quality Security Subaccount and the Drinking Water Security Subaccount may be applied to meet match requirements for federal funds under the Clean Water Act, 33 U.S.C. Sec. 1251 et seq. and the Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.

(5) If the money in the security fund is insufficient for the purposes for which the security fund is established, the council shall ask the governor to request the Legislature to appropriate additional money to the account.

(6) (a) The Drinking Water Board and Water Quality Board may use the money in the appropriate security fund subaccount:

(i) only to the extent of the money available in the account[-];

(ii) for the support of drinking water projects and wastewater projects in accordance with the terms of credit enhancement agreements, grant agreements, and loan agreements[-];

and

(iii) to fund in whole or in part a water infrastructure project, as defined in Section 73-10g-102, not including state funding used to meet federal match requirements, only if the water infrastructure project is prioritized by the Water Development Coordinating Council under Chapter 10g, Part 6, Planning and Prioritization.

(b) Repayments to the security fund from loans made by the acting board, money allocated by the Legislature, and interest accrued on the money shall remain available for use by that acting board for further project funding.

(c) The Drinking Water Board and Water Quality Board may use the money in the origination fee subaccount to administer this chapter.

(d) The Water Development Coordinating Council shall include in the unified state water infrastructure plan water infrastructure projects funded with federal State Revolving

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Fund funding or state water funds used to meet federal match requirements. A water infrastructure project described in this Subsection (6)(d) may be added to the unified state water infrastructure plan after the water infrastructure project receives authorization for funding from the Drinking Water Board or Water Quality Board.

(7) [~~Funds~~] Money received under the Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq. may be used for providing financial assistance to community water systems and nonprofit noncommunity water systems as defined and within the limits of that act.

Section 22. Section **73-10g-102** is amended to read:

73-10g-102. Definitions.

As used in this chapter:

(1) (a) "Available funds" means money that may be issued as a loan or grant in accordance with a fund or account created under this title, including:

- (i) the Water Resources Conservation and Development Fund;
- (ii) the Water Resources Construction Fund, including the fund's subaccounts;
- (iii) the Water Resources Cities Water Loan Fund;
- (iv) the Water Infrastructure Restricted Account;
- (v) the Water Development Security Fund, including the fund's subaccounts;
- (vi) the Water Infrastructure Fund;
- (vii) the Water Development and Flood Mitigation Reserve Account; and
- (viii) the Lake Powell Pipeline Project Operation and Maintenance Fund.

(b) "Available funds" does not include the Agricultural Water Optimization Account.

(2) "Board" means the Board of Water Resources[;].

[~~(2)~~] (3) "Division" means the Division of Water Resources[; ~~and~~].

[~~(3)~~] (4) "Restricted account" means the Water Infrastructure Restricted Account created in Section 73-10g-103.

(5) "Retail water supplier" means a person that supplies water to an end user for municipal or industrial purposes such as human consumption or other domestic uses.

(6) "Water Infrastructure Fund" means the special revenue fund created in Section 73-10g-108.

(7) "Water infrastructure project" means:

(a) the following for the supply, control, measurement, treatment, distribution, storage,

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or transport of water:

(i) planning;

(ii) design;

(iii) construction;

(iv) reconstruction;

(v) improvement;

(vi) renovation;

(vii) acquisition; or

(viii) seismic upgrade; or

(b) a project to engage in planning consistent with Part 6, Planning and Prioritization.

Section 23. Section **73-10g-103** is amended to read:

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

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

(b) The restricted account shall earn interest.

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

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

(b) appropriations made to the restricted account by the Legislature;

(c) interest earned on the restricted account; and

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

(3) Subject to appropriation and prioritization under Part 6, Planning and Prioritization, the division and the board shall manage the restricted account created in Subsection (1) in accordance with this chapter.

Section 24. Section **73-10g-104** is amended to read:

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

~~{}Money in the restricted account is to be used{for.}~~

~~(1) Subject, subject to appropriation and Part 6, Planning and Prioritization, the board shall allocate and expend money in the restricted account to fund, in whole or in part, water infrastructure projects.~~

~~(2) Water infrastructure projects funded by the restricted account include:~~

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~~[(1)](a)~~ for:

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

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

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

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

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

~~[(b)](ii)~~ adopts and implements the local water conservancy district's emergency drought contingency plan;

~~[(c)](iii)~~ adopts and implements the local water conservancy district's grass rebate program's maximum grass restrictions;

~~[(d)](iv)~~ prohibits grass in new retail, industrial, or commercial facility landscaping;

~~[(e)](v)~~ has reuse water be managed by the local water conservancy district;

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

~~[(g)](vii)~~ adopts and implements excess water use surcharges;

~~[(h)](viii)~~ prohibits private water features in new development, such as a fountain, pond, or ski lake; and

~~[(i)](ix)~~ prohibits large grassy areas in new development, unless the large grassy area is open to the general public.

Section 25. Section **73-10g-105** is amended to read:

73-10g-105. Loans -- Rulemaking.

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(1) (a) The division and the board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in preparation to make loans from available funds to repair, replace, or improve underfunded federal water infrastructure projects.

(b) Subject to Part 6, Planning and Prioritization, Chapter 26, Bear River Development Act, and Chapter 28, Lake Powell Pipeline Development Act, the division and the board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in preparation to make loans from available funds to develop the state's undeveloped share of the Bear ~~[and] River or~~ Colorado ~~[rivers] River~~.

(2) The rules described in Subsection (1) shall:

(a) specify the amount of money that may be loaned;

(b) ~~[specify the criteria the division and the board shall consider in prioritizing and]~~ require the division and the board to comply with Part 6, Planning and Prioritization, in awarding loans;

(c) specify the minimum qualifications for a person to receive a loan, including:

(i) the amount of cost-sharing to be the responsibility of the person applying for a loan; and

(ii) compliance with Section 73-10g-605;

(d) specify the terms of the loan, including the terms of repayment; and

(e) require an applicant for a loan to apply on forms provided by the division and in a manner required by the division.

(3) The division and the board shall, in making the rules described in Subsection (1) and in consultation with the Legislative Water Development Commission created in Section 73-27-102:

(a) establish criteria for better water data and data reporting;

(b) establish new conservation targets based on the data described in Subsection (3)(a);

(c) institute a process for the independent verification of the data described in Subsection (3)(a);

(d) establish a plan for an independent review of:

(i) the proposed construction plan for an applicant's qualifying water infrastructure project; and

(ii) the applicant's plan to repay the loan for the construction of the proposed water

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infrastructure project;

- (e) invite and recommend public involvement; and
- (f) set appropriate financing and repayment terms.

(4) The division and the board shall provide regular updates to the Legislative Management Committee on the progress made under this section, including whether the division and board intend to issue a request for proposals.

Section 26. Section **73-10g-105.5** is enacted to read:

73-10g-105.5. Grants ~~and~~ loans-- Rulemaking.

(1) Subject to Part 6, Planning and Prioritization, the division and the board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in preparation to make ~~grants~~ from available funds:

- (a) grants for water infrastructure projects; or
- (b) loans for water infrastructure projects not addressed under Section 73-10g-105.

(2) The rules described in Subsection (1) shall:

- (a) specify from which fund or account the grant ~~money is~~ or loan to be issued;
- (b) specify the amount of money that may be granted or loaned;
- (c) require the division and the board to comply with Part 6, Planning and

Prioritization, in awarding grants or loans;

(d) specify the minimum qualifications for a person to receive a grant or loan, except that the division and board shall require compliance with Section 73-10g-605 to be eligible for a grant or loan;

(e) specify the terms of the grant or loan, except that for a loan, the terms shall:

- (i) provide for the issuance of low interest revolving loans; and
- (ii) include repayment terms not to exceed 30 years; and

(f) require an applicant for a grant or loan to apply on forms provided by the division and in a manner required by the division.

Section 27. Section **73-10g-107** is enacted to read:

73-10g-107. Water use fee -- Study of water funding tools.

(1) (a) Beginning July 1, 2027, the board shall assess an annual fee on ~~a retail water supplier~~ an end user as a condition of the ~~retail~~ water supplier providing water to ~~an~~ the end user. The fee shall be collected by the retail water supplier or other water provider that

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provides water to the end user for a price.

(b) The board shall calculate the amount of the annual fee assessed by:

(i) determining the amount of money committed to fund prioritized water infrastructure projects in fiscal year 2026; and

(ii) calculating the proportional share of the amount described in Subsection (1)(b)(i) for each retail water supplier or other water provider based on the amount of water that the retail water supplier or other water provider supplies to an end user.

(c) The board shall deposit money collected from the fee into the Water Infrastructure Fund created in Section 73-10g-108.

(d) The board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the method of assessing and collecting the fee.

(e) A fee imposed under this Subsection (1) is not subject to the jurisdiction of the Public Service Commission or subject to procedures under Title 54, Public Utilities.

(2) (a) In addition to the Department of Natural Resources' study under Section 79-2-407, the board and division shall jointly study the funding of water infrastructure projects in the state through:

(i) the collection of the fee provided in Subsection (1); and

(ii) the consolidation into a single fund or account money used to fund water infrastructure projects as described in Subsection (4).

(b) The board and division shall consider how to facilitate the implementation of Part 6, Planning and Prioritization, as part of the study.

(3) With regard to the fee, the board and division shall jointly study and make recommendations about how to modify Subsection (1) regarding:

(a) who is assessed the fee;

(b) how to calculate the fee amount, including any adjustments to the fee amount over time;

(c) the process of collecting the fee, including whether it should be collected by:

(i) retail water suppliers or a broader definition of water retailers;

(ii) wholesale water providers;

(iii) nonprofit irrigation companies; or

(iv) wastewater treatment plants;

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- (d) where the money collected should be deposited;
- (e) whether the revenue stream should be configured as a tax rather than a fee; ~~{and}~~
- (f) how the money collected should be spent ~~{,}~~;
- (g) the affordability of the fee for end users; and
- (h) how to assure that the revenue is distributed equitably statewide.

(4) With regard to the consolidation of funds or accounts, the board ~~and division~~ shall ~~jointly~~ study and make recommendations about consolidating into a single fund or account money used to fund water infrastructure projects, including available funds.

(5) The board ~~and division~~ shall ~~jointly~~ report the board's ~~and division's joint~~ findings from the study described in this section, including any recommendations, to the Natural Resources, Agriculture, and Environment Interim Committee and the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by no later than the ~~{2024}~~2025 October interim meetings of the Legislature.

Section 28. Section **73-10g-108** is enacted to read:

73-10g-108. Water Infrastructure Fund.

(1) There is created an enterprise fund known as the "Water Infrastructure Fund," which is referred to in this section as the "fund."

(2) The fund shall consist of:

- (a) deposits of the ~~{water infrastructure}~~ fee under Section 73-10g-107;
- (b) appropriations from the Legislature;
- (c) money from the federal government;
- (d) grants or donations from a person;
- (e) money received for the repayment of loans made from the fund;
- (f) money made available to the state for purposes of water infrastructure projects from any source; and

~~{f}~~g) interest and earnings on the fund.

(3) The state treasurer shall invest the money in the fund according to Title 51, Chapter 7, State Money Management Act, except that interest or other earnings derived from those investments shall be deposited into the fund.

(4) The ~~{board}~~ ~~Water Development Coordinating Council~~ may:

- (a) issue loans and grants from the fund to pay for water infrastructure projects

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prioritized by the Water Development Coordinating Council under Part 6, Planning and Prioritization, including:

~~(a)~~i a new water infrastructure project; or

~~(b)~~ii a water infrastructure project that exists at the time of the loan or grant~~(i)~~; and

(b) provide for the costs of administering Part 6, Planning and Prioritization, including staff directly related to the activities of the Water Development Coordinating Council under Part 6, Planning and Prioritization.

Section 29. Section **73-10g-301** is amended to read:

Part 3. Watershed Councils Act

73-10g-301. Implementation of part.

~~[(1) This part is known as the "Watershed Councils Act." (2)]~~

— } — This part shall be liberally construed to:

[(a)] (1) provide input to the Water Development Coordinating Council regarding infrastructure planning on a watershed and state level in accordance with Part 6, Planning and Prioritization;

(2) develop diverse and balanced stakeholder forums for discussion of water policy and resource issues at watershed and state levels that are not vested with regulatory, infrastructure financing, or enforcement powers or responsibilities; and

[(b)] (3) use local expertise and resources found in universities and other research institutions or in regional, state, and federal agencies.

Section 30. Section 73-10g-302 is amended to read:

73-10g-302. Definitions.

As used in this part:

(1) "Council" means the state council or a local council created under this part.

(2) "Local council" means a local [watershed] council created in accordance with Section 73-10g-306.

(3) "State council" means the Utah Watersheds Council created in Section 73-10g-304.

(4) "Utah Water Task Force" means a task force created by the Department of Natural Resources to review and make recommendations regarding water issues.

Section ~~{30}~~31. Section **73-10g-304** is amended to read:

73-10g-304. Utah Watersheds Council -- Creation and governance.

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(1) Within the Department of Natural Resources, there is created the "Utah Watersheds Council" consisting of the following members who are residents of the state:

- (a) the executive director of the Department of Natural Resources;
- (b) the executive director of the Department of Environmental Quality;
- (c) the commissioner of the Department of Agriculture and Food;
- (d) the director of the Utah Division of Indian Affairs;
- (e) the Utah State University Extension vice president;
- (f) the director of the Division of Emergency Management within the Department of

Public Safety;

- (g) a representative designated by the Utah Association of Counties;
- (h) a representative designated by the Utah League of Cities and Towns;
- (i) a representative designated by the Utah Association of Special Districts;
- (j) a representative of reclamation projects located in the state selected by the governor from a list of three persons nominated jointly by the local sponsors of reclamation projects located in the state and the executive director of the Department of Natural Resources;

(k) a representative of agricultural interests selected by the governor from a list of three persons nominated jointly by the commissioner of the Department of Agriculture and Food, the president of the Utah Farm Bureau, and the Utah State University Extension vice president;

(l) a representative of environmental conservation interests selected by the governor from a list of three persons nominated jointly by the executive directors of the Department of Environmental Quality and Department of Natural Resources;

(m) a representative of business and industry water interests selected by the governor from a list of three individuals nominated jointly by the Utah Manufacturers Association, Utah Mining Association, and Utah Petroleum Association;

(n) an attorney who is authorized to practice law in the state, who has recognized expertise in water law, and is selected by the governor from a list of three individuals nominated jointly by the executive director of the Department of Natural Resources, the executive director of the Department of Environmental Quality, and the commissioner of the Department of Agriculture and Food; ~~and~~

(o) the state engineer, as a nonvoting member;

(p) the director of the division, as a nonvoting member; and

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~~[(c)]~~ (q) the designated individual selected by a local ~~[watershed]~~ council certified under Section 73-10g-306.

(2) (a) The state council shall:

(i) organize the state council as provided in this part;

(ii) select a chair and at least one vice-chair from among the members of the state council to have powers and duties provided in the organizing documents adopted by the state council; and

(iii) adopt policies to govern the state council's activities, including policies for the creation of subcommittees that may be less than a quorum of the state council and may include persons of suitable expertise who are not state council members.

(b) The state council shall make the organizing documents and policies created under Subsection (2)(a) available:

(i) to the public;

(ii) at each meeting of the state council; and

(iii) on a public website maintained by the division for council business.

(3) The state council may invite federal agencies to name representatives as liaisons to the state council.

(4) The state council shall stagger the initial terms of the state council members listed in Subsections (1)(g) through (n), after which members will be replaced according to policies adopted by the state council.

(5) After the state council's initial organization, the state council may hold regular and special meetings at such locations within the state and on a schedule as the state council determines, provided that the state council shall meet at least semi-annually.

(6) A majority of the voting members of the state council constitutes a quorum.

(7) The action of the majority of the voting members of the state council constitutes the action of the state council.

(8) (a) The state council policies may allow that a properly authorized representative of a voting member of the state council may act in the place of that voting member if the voting member is absent or unable to act.

(b) The state council shall enter in the record of a meeting proper documentation of a representative's authority to act on behalf of the voting member under this Subsection (8).

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(c) Authorization to act on behalf of a voting member may be given for more than one meeting.

(d) Authorization to act on behalf of a voting member shall comply with the policies adopted by the state council.

(9) (a) The division shall staff the state council.

(b) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to facilitate the creation and operation of the state council.

Section ~~31~~32. Section **73-10g-305** is amended to read:

73-10g-305. Role of the state council -- Reporting.

(1) The state council [~~is directed to~~] shall:

(a) serve as a forum to encourage and facilitate discussion and collaboration by and among the stakeholders relative to the water-related interests of the state and the state's people and institutions;

(b) facilitate communication and coordination between the Department of Natural Resources, the Department of Agriculture and Food, the Department of Environmental Quality, and other state and federal agencies in the administration and implementation of water-related activities;

(c) facilitate the establishment of local [~~watershed~~] councils by certifying a local council:

(i) for the watersheds defined in Section 73-10g-303; and

(ii) after reviewing the proceedings and documents submitted by proposed local councils, to ensure that the local council meets the certification requirements in Section 73-10g-306;

(d) provide resources and support for the administration of local councils;

(e) consult and seek guidance from local councils; [~~and~~]

(f) advise the Water Development Coordinating Council regarding a unified water infrastructure plan in accordance with Section 73-10g-602; and

~~(f)~~ (g) provide advice to the governor and Legislature on water issues.

(2) The state council shall provide updates on the state council's activities annually, or as invited, to:

(a) the Natural Resources, Agriculture, and Environment Interim Committee;

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- (b) the Legislative Water Development Commission; and
- (c) the Utah Water Task Force.

Section ~~32~~33. Section 73-10g-306 is amended to read:

73-10g-306. Local councils -- Creation.

(1) A proposed local [~~watershed~~] council may be certified by the Utah Watersheds Council under Subsection ~~[73-10g-305(1)(c) if:]~~

(a) the organizing documents and policies of the proposed local [~~watershed~~] council:

(i) provide for an open and equitable system of governance;

(ii) encourage participation by a water user or group of water users, other watershed groups, mutual irrigation companies, distribution system committees, and other stakeholders within the watershed; and

(iii) require that:

(A) a majority of the members of the local council constitutes a quorum; and

(B) an action of the local council be approved by no less than a majority of the members of the local council;

(b) in a balance appropriate for the watershed, the proposed local council membership includes watershed stakeholders who reside or work within the watershed or own or control the right to divert or use water within the watershed and is representative, where feasible, of at least these interests:

(i) agriculture;

(ii) industry;

(iii) Indian tribes;

(iv) public water suppliers, as defined in Section 73-1-4;

(v) water planning and research institutions;

(vi) water quality;

(vii) fish and wildlife;

(viii) water dependent habitat and environments;

(ix) watershed management, such as distribution system committees functioning within the watershed;

(x) mutual irrigation companies;

(xi) land use planning agencies; and

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~~[(xi)]~~ (xii) local sponsors of ~~[reclamation]~~ Bureau of Reclamation projects;

(c) for each of the five watersheds that drain into Great Salt Lake, the proposed local council includes a person designated by the Great Salt Lake local watershed council, if the Great Salt Lake local ~~[watershed]~~ council is certified; and

(d) for the Great Salt Lake watershed, the proposed local council includes a person designated by each of the five watersheds that drain into Great Salt Lake that has a certified local watershed council.

(2) A local council may invite state and federal agencies to name representatives as liaisons to the local council.

Section ~~{33}~~34. Section **73-10g-601** is enacted to read:

Part 6. Planning and Prioritization

73-10g-601. Definitions.

As used in this part:

(1) "Agency plan" means a water infrastructure plan adopted by a relevant agency.

(2) "Executive director" means the executive director of the Department of Natural

Resources.

(3) "Relevant agency" means:

(a) the Division of Water Resources;

(b) the Division of Drinking Water;

(c) the Division of Water Quality;

(d) the Housing and Community Development Division; and

(e) the Department of Agriculture and Food.

(4) "State council" means the Water Development Coordinating Council created in Sections 73-10c-3 and 79-2-201.

(5) "State water funds" means money:

(a) appropriated by the Legislature to fund a water infrastructure project; or

(b) that is:

(i) state money; and

(ii) held in a fund administered by a relevant agency for purposes related to water.

(6) "Utah Watersheds Council" means the Utah Watersheds Council created in Section 73-10g-304.

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Section ~~{34}~~35. Section 73-10g-602 is enacted to read:

73-10g-602. Unified water infrastructure plan -- Annual reporting.

(1) (a) The state council shall adopt a unified water infrastructure plan in accordance with this section by no later than ~~{January 1}~~June 30, ~~{2025}~~2026.

(b) The state council shall update the unified water infrastructure plan as needed, but at least every four years.

(c) A relevant agency may request that the state council amend the unified water infrastructure plan.

(2) A unified water infrastructure plan shall:

(a) describe water infrastructure projects:

(i) needed to maintain the reliable supply of safe and clean water within the state; and

(ii) organized in 10-year phases up to at least a 20-year plan; ~~{and}~~

(b) be ~~consistent with the policies, goals, and recommendations of the state water plan;~~

and

(c) be based ~~primarily~~ on agency plans submitted by the relevant agencies ~~{and other relevant information}~~.

(3) Beginning on June 30, ~~{2024}~~2025, a relevant agency shall:

(a) annually adopt a water infrastructure agency plan that describes ~~and prioritizes~~ needed water infrastructure projects under the jurisdiction of the relevant agency;

(b) include in the agency plan prioritization justifications and descriptions of whether the water infrastructure project is:

(i) ready for construction;

(ii) planning for construction; or

(iii) a future project.

~~{b}~~c organize an agency plan under this section in 10-year phases up to at least a 20-year plan; and

~~{c}~~d annually submit the agency plan to the state council by no later than June 30.

(4) Before adopting or amending a unified water infrastructure plan, the state council shall provide a draft of the proposed unified water infrastructure plan to the Utah Watersheds Council and the Utah Watersheds Council may advise the state council concerning the unified water infrastructure plan.

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(5) (a) Beginning September 1, 2024, a relevant agency shall annually prepare a report and submit it to the state council concerning the funds or accounts that the relevant agency administers.

(b) The report required under this Subsection (5) shall provide for the fund or account:

(i) the balance at the beginning of the fiscal year of the report;

(ii) revenues received from any source during the fiscal year;

(iii) the ending balance after the close of the fiscal year; and

(iv) projected revenues and disbursements for the coming fiscal year.

(c) The state council shall compile the reports submitted pursuant to this Subsection (5) by no later than October 1 and distribute the compiled report to:

(i) the governor;

(ii) the Legislative Management Committee;

(iii) the Natural Resources, Agriculture, and Environment Interim Committee; and

(iv) the Natural Resources, Agriculture, and Environmental Quality Appropriations

Subcommittee.

Section ~~{35}~~36. Section **73-10g-603** is enacted to read:

73-10g-603. Ranking and prioritizing water infrastructure projects.

(1) The state council, in consultation with the relevant agencies, shall develop a written prioritization process for ranking and prioritizing water infrastructure projects that are or will be funded by state water funds beginning with fiscal year ~~{2026}~~2027. The written prioritization process shall:

(a) identify water infrastructure projects listed in the unified water infrastructure plan described in Section 73-10g-602; and

(b) rank the water infrastructure projects identified under Subsection (1)(a).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) subject to Subsection (3), categories of the types of water infrastructure projects against which other water infrastructure projects are prioritized;

(b) exclusion of the following types of water infrastructure projects:

(i) an emergency water infrastructure project; or

(ii) a small water infrastructure project that receives less than an amount of state water

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funds established by rule made by the state council in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) hardship criteria that at a minimum refer to the hardship criteria of the Division of Drinking Water and the Division of Water Quality;

(d) criteria related to the public interest, including conservation and the protection of public health and safety;

(e) criteria to ensure that the project is adequately designed based on sound engineering and geologic considerations;

(f) criteria for ranking or prioritizing a local water infrastructure project based on:

(i) a local water infrastructure plan that is consistent with this section; and

(ii) consultation with local entities about local water infrastructure projects;

(g) criteria for ranking or prioritizing a water infrastructure project when state water funds will be used to match federal funding;

(h) a requirement that a person who receives state water funds for a water infrastructure project:

(i) engage in long-term planning consistent with Section 73-10g-602; and

(ii) comply with Section 73-10g-605; and

(i) any other provision the state council considers appropriate.

(3) When including categories of types of water infrastructure projects used in the written prioritization process, the state council ~~may~~ shall consider:

(a) whether to apply percentages of state water funds assigned to each category ~~and~~;

(b) the size and resources of recipients; and

(c) the potential purposes of the different types of water infrastructure projects, such as agricultural, municipal, or industrial uses.

(4) In developing the written prioritization process, the state council shall seek and consider public comment related to developing the written prioritization process by holding public meetings at locations throughout the state in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state council shall make rules establishing the written prioritization process under Subsection (1).

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(b) The state council shall submit a proposed rule to a committee or commission designated by the Legislative Management Committee for review before taking final action on the proposed rule or a proposed amendment to the rule described in this Subsection (5).

(6) In determining priorities and funding levels of water infrastructure projects, the state council shall use the ranked list of water infrastructure projects based on the criteria adopted in the written prioritization process under Subsection (1).

(7) A relevant agency shall annually report to the state council on the status of new water infrastructure projects, including water infrastructure projects that are funded by the Legislature in an appropriation act.

(8) For a fiscal year before fiscal year ~~2026~~2027, a relevant agency shall prioritize water infrastructure projects within the jurisdiction of the relevant agency and not the state council.

Section ~~36~~37. Section 73-10g-604 is enacted to read:

73-10g-604. State council's general duties related to prioritizing -- Reporting -- Relevant agency actions.

(1) The state council shall:

(a) beginning with fiscal year ~~2026~~2027, determine priorities and funding levels of water infrastructure projects for each fiscal year based on ranked water infrastructure projects;

(b) hold public meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act, and otherwise provide for public input on funding of water infrastructure projects; and

(c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to perform the state council's duties related to:

(i) adopting the unified water infrastructure plan;

(ii) adopting a written prioritization plan; and

(iii) prioritizing and setting funding levels for water infrastructure projects.

(2) (a) For water infrastructure projects prioritized with funding provided under this title, the state council shall annually report, by no later than the October interim meeting of the Legislature, to a committee or commission designated by the Legislative Management Committee:

(i) a prioritized list of the water infrastructure projects and the funding levels available

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for those water infrastructure projects; and

(i) the unfunded water infrastructure projects and maintenance needs within the state.

(b) The committee or commission designated by the Legislative Management

Committee under Subsection (2)(a) shall:

(i) review the list reported by the state council; and

(ii) recommend to the Legislature:

(A) the amount of additional funding to allocate to water infrastructure projects; and

(B) the source of revenue for the additional funding allocation under Subsection

(2)(b)(ii)(A).

(3) A relevant agency shall administer money prioritized under this part in a manner consistent with this part.

Section ~~37~~38. Section **73-10g-605** is enacted to read:

73-10g-605. Capital asset management and reserve analysis -- Assistance for person seeking state funds.

(1) As a condition of receiving state water funds for a water infrastructure project by a loan or grant, a recipient shall:

(a) conduct a reserve study showing how the recipient shall:

(i) repay the loan if the recipient receives a loan; and

(ii) collect money for repair and replacement of the water infrastructure project;

(b) if the recipient receives a loan, update the reserve study described in Subsection

(1)(a) every five years or until the loan is repaid; and

(c) comply with the relevant capital asset management requirements under:

(i) Section 19-5-202 for a water infrastructure project related to wastewater or sewage infrastructure; or

(ii) Section 73-10g-502 for a water provider's, as defined in Section 73-10g-501, water infrastructure project that is not described in Subsection (1)(c)(i).

(2) A reserve study required under this section shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

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(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(e) a reserve funding plan that recommends how the system may fund the annual contribution described in Subsection (2)(d).

(3) If a person seeking state water funds under this part establishes a need to the satisfaction of a relevant agency, the relevant agency may provide the person:

(a) state water funds to assist the recipient in complying with the planning, reserve analysis, and capital asset management requirements of this part; or

(b) technical assistance with the planning, reserve analysis, or capital asset management requirements of this part.

Section ~~{38}~~39. Section 73-20-8 is amended to read:

73-20-8. Emergency Water Resources Account -- Creation -- Purpose.

There is hereby created within the Water Resources Construction Fund an account to be known as the "Emergency Water Resources Account," the proceeds of which shall be used:

(1) exclusively for the development of emergency water resources; and

(2) (a) if prioritized under Chapter 10g, Part 6, Planning and Prioritization; or

(b) excluded from prioritization pursuant to Subsection 73-10g-603(2)(b)(i).

Section ~~{39}~~40. **Repealer.**

This bill repeals:

Section 73-10-17, **State water plan -- Authority of other agencies not impaired.**

Section 41. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 41(a). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated.

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and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

<u>ITEM 1</u>	<u>To Department of Natural Resources - Water Infrastructure Fund</u>	
=	<u>From General Fund, One-time</u>	<u>\$5,000,000</u>
=	<u>Schedule of Programs:</u>	
=	<u>Water Infrastructure Fund</u>	<u>\$5,000,000</u>

Section ~~{40}~~42. **Effective date.**

This bill takes effect on May 1, 2024.