

**Senator Michael K. McKell** proposes the following substitute bill:

**WATER EFFICIENCY AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael K. McKell**

House Sponsor: Calvin R. Musselman

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**LONG TITLE**

**General Description:**

This bill addresses programs for water efficiency.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides for incentives to use water efficient landscaping in new residential development;
- ▶ grants rulemaking authority;
- ▶ provides a sunset date; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

This bill appropriates in fiscal year 2025:

- ▶ to Department of Natural Resources - Water Resources - Planning as a one-time appropriation:
  - from the General Fund, One-time, \$1,000,000

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



26 AMENDS:

27 [63I-2-273](#), as enacted by Laws of Utah 2020, Chapter 418

28 ENACTS:

29 [73-10-37.5](#), Utah Code Annotated 1953

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

32 Section 1. Section **63I-2-273** is amended to read:

33 **63I-2-273. Repeal dates: Title 73.**

34 [~~Section 73-1-20 is repealed on July 1, 2021~~]

35 Section [73-10-37.5](#), addressing incentives to use water efficient landscaping in new  
36 residential property, is repealed on July 1, 2027.

37 Section 2. Section **73-10-37.5** is enacted to read:

38 **73-10-37.5. Incentives to use water efficient landscaping in new residential**  
39 **development.**

40 (1) As used in this section:

41 (a) "District" means a water conservancy district, as that term is defined in Section  
42 [73-10-32](#).

43 (b) "Division" means the Division of Water Resources.

44 (c) "Great Salt Lake basin" means the area within:

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

46 (ii) the drainage areas of the Bear River or the Bear Rivers tributaries;

47 (iii) the drainage areas of Bear Lake or Bear Lakes tributaries;

48 (iv) the drainage areas of the Weber River or the Weber Rivers tributaries;

49 (v) the drainage areas of the Jordan River or the Jordan Rivers tributaries;

50 (vi) the drainage areas of Utah Lake or Utah Lakes tributaries;

51 (vii) other water drainages lying between the Bear River and the Jordan River that are  
52 tributary to the Great Salt Lake and not included in the drainage areas described in Subsections

53 (1)(c)(ii) through (vi); and

54 (viii) the drainage area of Tooele Valley.

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

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

58 (e) "New construction landscaping incentive program" means a program administered  
59 by a district that pays a qualifying applicant a financial incentive to install water efficient  
60 landscaping in a project area.

61 (f) "Owner" means a person who:

62 (i) contracts with a person who is licensed as a contractor or is exempt from licensure  
63 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction on an  
64 owner-occupied residence upon real property that the person:

65 (A) owns; or

66 (B) purchases after the person enters into a contract described in this Subsection

67 (1)(f)(i) and before completion of the owner-occupied residence;

68 (ii) contracts with a real estate developer to buy a residence upon completion of the  
69 construction on the owner-occupied residence; or

70 (iii) purchases a residence from a real estate developer after completion of the  
71 construction on the owner-occupied residence.

72 (g) "Program guidelines" means guidelines adopted by a district for the district's new  
73 construction landscaping incentive program.

74 (h) "Project area" means the area of residential property in which a qualifying applicant  
75 installs water efficient landscaping.

76 (i) "Qualifying applicant" means a person who is:

77 (i) an owner; or

78 (ii) a real estate developer.

79 (j) "Real estate developer" means a person having an ownership interest in real  
80 property who:

81 (i) contracts with a person who is licensed as a contractor or is exempt from licensure  
82 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction of a  
83 residence that is offered for sale to the public; or

84 (ii) is a licensed contractor under Title 58, Chapter 55, Utah Construction Trades  
85 Licensing Act, who engages in the construction of a residence that is offered for sale to the  
86 public.

87 (k) "Residential property" means the real property on which single family detached

88 housing or single family attached housing, as further defined by the division by rule under  
89 Subsection (5), is constructed.

90 (2) For residential property within the Great Salt Lake basin, the division may:

91 (a) award a grant under Subsection (3) to a district to fund a financial incentive  
92 provided through a new construction landscaping incentive program administered by the  
93 district; and

94 (b) provide an incentive under Subsection (4) in an area without a new construction  
95 landscaping incentive program to a qualifying applicant to install water efficient landscaping in  
96 a project area.

97 (3) (a) (i) A district may obtain a grant from the division to help fund a financial  
98 incentive provided to a qualifying applicant through a new construction landscaping incentive  
99 program administered by the district.

100 (ii) Both the award and use of a grant under this Subsection (3) are subject to  
101 Subsections (3)(b), (c), and (d).

102 (b) To obtain a grant, a district shall:

103 (i) initiate and operate a new construction landscaping incentive program;

104 (ii) limit the disbursement of grant money in the district's new construction landscaping  
105 incentive program to qualifying applicants that satisfy the minimum requirements of  
106 Subsections (4)(c) and (d) and:

107 (A) rules made by the division under Subsection (5)(b); or

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

109 (iii) use the grant exclusively to fund financial incentives provided to a qualifying  
110 applicant that installs water efficient landscaping in a project area in the district's new  
111 construction landscaping incentive program;

112 (iv) provide matching funds for the district's new construction landscaping incentive  
113 program in an amount provided in rules made by the division under Subsection (5) from  
114 sources other than the grant money the district receives under this section;

115 (v) file an application with the division that:

116 (A) describes the district's new construction landscaping incentive program, including  
117 verification that the new construction landscaping incentive program can and shall implement  
118 the minimum requirements of Subsections (4)(c) and (d) and either rules made by the division

119 under Subsection (5)(b) or program guidelines approved by the division under Subsection  
120 (3)(f);

121 (B) includes a copy of the program guidelines governing the district's new construction  
122 landscaping incentive program;

123 (C) if the district wants to be subject to program guidelines in lieu of division rules  
124 made under Subsection (5)(b), requests that the division approve the district's program  
125 guidelines under Subsection (3)(f); and

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

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

128 (A) verify that qualifying applicants comply with and landscaping projects proposed,  
129 undertaken, and completed by qualifying applicants under the district's new construction  
130 landscaping incentive program satisfy the requirements in this Subsection (3) and any contract  
131 before using grant money for a financial incentive;

132 (B) agree not to use grant money for a financial incentive in any landscaping project  
133 that fails to satisfy the requirements of this Subsection (3) and either rules made by the division  
134 or program guidelines approved by the division under Subsection (3)(f);

135 (C) submit to the division quarterly reports on funding status; and

136 (D) prepare and submit an annual accounting to the division on the use of grant money  
137 for financial incentives in the district's new construction landscaping incentive program.

138 (c) (i) Upon expenditure of 70% of the grant money awarded to a district and an  
139 accounting on the use of that grant money, a district may apply for additional grant money in  
140 accordance with Subsection (3)(b).

141 (ii) The division may award a district an additional grant based on:

142 (A) the availability of grant money;

143 (B) the priority or importance of the grant proposal in relation to availability of grant  
144 money, the district's new construction landscaping incentive program under this Subsection (3),  
145 other new construction landscaping incentive program grant requests, and regional needs and  
146 goals;

147 (C) the effectiveness of the district's new construction landscaping incentive program  
148 in incentivizing qualified applicants to install water efficient landscaping;

149 (D) the district's previous compliance with this Subsection (3) and contract terms and

150 conditions; and

151 (E) any matter bearing on the district's ability to responsibly handle and disburse grant  
152 money consistent with this Subsection (3) and contract terms and conditions.

153 (d) A district awarded grant money under this Subsection (3) may not use grant money  
154 to pay an incentive that exceeds the maximum amounts established by the division by rule  
155 under Subsection (5)(c).

156 (e) Nothing in this section prohibits a district from expending non-grant money,  
157 including matching funds, under the district's new construction landscaping incentive program  
158 to:

159 (i) assist an applicant that does not satisfy Subsection (4)(c) or (d); or

160 (ii) provide an incentive that exceeds a maximum amount established by the division  
161 for grant money under Subsection (3)(d).

162 (f) The division may approve a request from a district under Subsection (3)(b)(v)(C) to  
163 use program guidelines in lieu of rules made by the division under Subsection (5)(b) if the  
164 division determines that the district's program guidelines will:

165 (i) result in at least as much water use savings as rules made under Subsection (5)(b);

166 and

167 (ii) accomplish the same objectives as rules made under Subsection (5)(b).

168 (4) (a) In an area without a new construction landscaping incentive program, the  
169 division may provide an incentive to a qualifying applicant to install water efficient  
170 landscaping in a project area.

171 (b) (i) If the division provides an incentive under this Subsection (4), the division shall  
172 provide the incentive in the order that an application for the incentive is filed.

173 (ii) The division may terminate an application if the division determines that the  
174 qualifying applicant has not completed the project within 12 months of the date on which the  
175 qualifying applicant files the application for the incentive.

176 (c) To be eligible for an incentive under this Subsection (4):

177 (i) the residential property where the project area is located is within:

178 (A) a municipality that implements regional-based water efficiency standards  
179 established by the division under Subsection 73-10-37(5)(d); or

180 (B) an unincorporated area of a county that implements regional-based water efficiency

181 standards established by the division under Subsection 73-10-37(5)(d);

182 (ii) the qualifying applicant shall at the time the qualifying applicant applies for the  
183 incentive demonstrate that:

184 (A) the construction on the residential property is new;

185 (B) lawn or turf has not been installed on the project area; and

186 (C) water efficient landscaping is to be installed on the project area; and

187 (iii) the qualifying applicant shall agree to comply with Subsection (4)(f).

188 (d) A qualifying applicant may not receive an incentive under this section if the  
189 qualifying applicant has previously received an incentive under this section for the same project  
190 area.

191 (e) The amount of an incentive paid to a qualifying applicant under this Subsection (4)  
192 may not exceed:

193 (i) the maximum amount established by the division in rule, as provided in Subsection  
194 (5) for each square foot of water efficient landscaping installed in the project area; or

195 (ii) the maximum aggregate amount for the residential property established by the  
196 division in rule as provided in Subsection (5).

197 (f) (i) If a qualifying applicant is not the owner, the qualifying applicant shall:

198 (A) require the owner of the residential property to maintain water efficient  
199 landscaping and a drip irrigation system installed in the project area and not install lawn or turf  
200 or overhead spray irrigation in the project area; or

201 (B) return to the division or to a district the payments received for installation of water  
202 efficient landscaping in the project area.

203 (ii) If a qualifying applicant is the owner, the owner shall:

204 (A) maintain water efficient landscaping and a drip irrigation system and not install  
205 lawn or turf or overhead spray irrigation in the project area; or

206 (B) return to the division or to a district the payments received for installation of water  
207 efficient landscaping in the project area.

208 (5) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
209 Administrative Rulemaking Act:

210 (a) establishing the process by which:

211 (i) a district obtains a grant under Subsection (3); or

212 (ii) a qualifying applicant applies for and obtains an incentive under Subsection (4);

213 (b) defining what constitutes:

214 (i) water efficient landscaping, including what irrigation is used after installation of  
215 water efficient landscaping;

216 (ii) new construction; and

217 (iii) single family detached housing or single family attached housing;

218 (c) establishing for funding under this section:

219 (i) the maximum incentive allowable for each square foot of installed water efficient  
220 landscaping within a project area from grant money or money provided to a qualified applicant  
221 under Subsection (4); and

222 (ii) a maximum aggregate incentive from grant money or money provided to a  
223 qualified applicant under Subsection (4);

224 (d) establishing the amount of matching funds, which may include labor or other  
225 services in lieu of money, a district is required to provide to receive a grant under this section;  
226 and

227 (e) establishing a minimum project area size for which an incentive from grant money  
228 or money provided to a qualified applicant under Subsection (4) may be paid.

229 **Section 3. FY 2025 Appropriation.**

230 The following sums of money are appropriated for the fiscal year beginning July 1,  
231 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for  
232 fiscal year 2025.

233 **Subsection 3(a). Operating and Capital Budgets.**

234 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the  
235 Legislature appropriates the following sums of money from the funds or accounts indicated for  
236 the use and support of the government of the state of Utah.

237 ITEM 1 To Department of Natural Resources - Water Resources

238 From General Fund, One-time \$1,000,000

239 Schedule of Programs:

240 Planning \$1,000,000

241 The Legislature intends that this appropriation be nonlapsing.



242 Section 4. **Effective date.**

243 This bill takes effect on May 1, 2024.