

CONSERVATION TAX INCENTIVE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kathleen A. Riebe

House Sponsor: _____

LONG TITLE**General Description:**

This bill enacts corporate and individual tax credits for the purchase and installation of water efficient landscaping and fixtures in new homes.

Highlighted Provisions:

This bill:

- ▶ enacts nonrefundable corporate and individual tax credits for the purchase and installation of water efficient landscaping and fixtures by a homebuilder;
- ▶ establishes a process for a homebuilder to receive a tax credit certificate from the Division of Water Resources (the division) before claiming the tax credit;
- ▶ establishes a cap on the amount of tax credit certificates that the division may issue per year; and
- ▶ schedules the repeal of the tax credit but requires legislative review before the repeal.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

63I-1-259, as last amended by Laws of Utah 2022, Chapter 218



28 [63I-1-273](#), as last amended by Laws of Utah 2022, Chapters 68, 79
29 [73-10-18](#), as last amended by Laws of Utah 2021, Chapter 179

30 ENACTS:

31 [59-7-627](#), Utah Code Annotated 1953
32 [59-10-1046](#), Utah Code Annotated 1953
33 [73-10-38](#), Utah Code Annotated 1953

34
35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section [59-7-627](#) is enacted to read:

37 **[59-7-627. Nonrefundable tax credit for purchase and installation of water](#)**
38 **[efficient landscaping and fixtures.](#)**

39 (1) As used in this section:

40 (a) "Division" means the Division of Water Resources created in Section [73-10-18](#).

41 (b) "Eligible expense" means the cost to a qualifying taxpayer to purchase and install a
42 WaterSense fixture or water wise landscaping in a new single family or multifamily home.

43 (c) "Qualifying taxpayer" means a taxpayer that:

44 (i) builds a new single family or multifamily home; and

45 (ii) receives a tax credit certificate in accordance with Section [73-10-38](#).

46 (d) "WaterSense fixture" means a fixture that meets the criteria established by the
47 Environmental Protection Agency to receive a WaterSense label.

48 (e) (i) "Water wise landscaping" means the same as that term is defined in Section
49 [10-9a-536](#).

50 (ii) "Water wise landscaping" includes water efficient landscaping as determined by the
51 division by rule.

52 (2) For a taxable year beginning on or after January 1, 2023, and beginning before
53 January 1, 2026, a qualifying taxpayer may claim a nonrefundable tax credit for eligible
54 expenses in an amount equal to the amount stated on the tax credit certificate.

55 (3) A qualifying taxpayer may carry forward, to the next taxable year, the amount of
56 the qualifying taxpayer's tax credit that exceeds the qualifying taxpayer's income tax liability
57 for the taxable year.

58 Section 2. Section [59-10-1046](#) is enacted to read:

59-10-1046. Nonrefundable tax credit for purchase and installation of water efficient landscaping and fixtures.

(1) As used in this section:

(a) "Eligible expense" means the cost to a qualifying claimant to purchase and install a WaterSense fixture or water wise landscaping in a new single family or multifamily home.

(b) "Qualifying claimant" means a claimant that:

(i) builds a new single family or multifamily home; and

(ii) receives a tax credit certificate in accordance with Section [73-10-38](#).

(c) "WaterSense fixture" means the same as that term is defined in Section [59-7-627](#).

(d) "Water wise landscaping" means the same as that term is defined in Section [59-7-627](#).

(2) For a taxable year beginning on or after January 1, 2023, and beginning before January 1, 2026, a qualifying claimant may claim a nonrefundable tax credit for eligible expenses in an amount equal to the amount stated on the tax credit certificate.

(3) A qualifying claimant may carry forward, to the next taxable year, the amount of the qualifying claimant's tax credit that exceeds the qualifying claimant's income tax liability for the taxable year.

Section 3. Section **63I-1-259** is amended to read:

63I-1-259. Repeal dates: Title 59.

(1) Section [59-1-213.1](#) is repealed May 9, 2024.

(2) Section [59-1-213.2](#) is repealed May 9, 2024.

(3) Subsection [59-1-405\(1\)\(g\)](#) is repealed May 9, 2024.

(4) Subsection [59-1-405\(2\)\(b\)](#) is repealed May 9, 2024.

(5) Section [59-7-618.1](#) is repealed July 1, 2029.

(6) Section [59-7-627](#) is repealed July 1, 2026.

[~~(6)~~] (7) Section [59-9-102.5](#) is repealed December 31, 2030.

[~~(7)~~] (8) Section [59-10-1033.1](#) is repealed July 1, 2029.

(9) Section [59-10-1046](#) is repealed July 1, 2026.

Section 4. Section **63I-1-273** is amended to read:

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

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

January 1, 2031.

(2) Subsection [73-10-18\(2\)\(c\)](#) is repealed July 1, 2026.

(3) Section [73-10-38](#) is repealed July 1, 2026.

~~[(2)]~~ (4) In relation to Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, on July 1, 2025:

(a) Section [73-10g-202](#) is repealed; and

(b) Section [73-10g-203](#) is repealed.

~~[(3)]~~ (5) Section [73-18-3.5](#), which authorizes the Division of Outdoor Recreation to appoint an advisory council that includes in the advisory council's duties advising on boating policies, is repealed July 1, 2024.

~~[(4)]~~ (6) Title 73, Chapter 30, Great Salt Lake Advisory Council Act, is repealed July 1, 2027.

~~[(5)]~~ (7) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

(a) Subsection [73-1-4\(2\)\(e\)\(xi\)](#) is repealed;

(b) Subsection [73-10-4\(1\)\(h\)](#) is repealed; and

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

Section 5. Section **73-10-18** is amended to read:

73-10-18. Division of Water Resources -- Creation -- Power and authority.

(1) There is created the Division of Water Resources, which shall be within the Department of Natural Resources under the administration and general supervision of the executive director of the Department of Natural Resources and under the policy direction of the Board of Water Resources.

(2) Except for the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act, the Division of Water Resources shall:

(a) be the water resource authority for the state; ~~[and]~~

(b) assume all of the functions, powers, duties, rights, and responsibilities of the Utah water and power board except those which are delegated to the board by this act and is vested with such other functions, powers, duties, rights and responsibilities as provided in this act and other law~~[-];~~ and

(c) issue tax credit certificates in accordance with Section [73-10-38](#).

Section 6. Section **73-10-38** is enacted to read:

73-10-38. Tax credit certificate for installation of water-efficient landscaping and fixtures.

(1) As used in this section:

(a) "Division" means the Division of Water Resources created in Section [73-10-18](#).

(b) "Eligible expense" means the cost to purchase and install a WaterSense fixture or water wise landscaping in a new single family or multifamily home.

(c) "Qualifying application" means an application for a tax credit certificate that meets the requirements of Subsection (3) from a person that the division determines is eligible to receive a tax credit certificate.

(d) "WaterSense fixture" means the same as that term is defined in Section [59-7-627](#).

(e) "Water wise landscaping" means the same as that term is defined in Section [59-7-627](#).

(2) A person that seeks to claim a tax credit under Section [59-7-627](#) or [59-10-1046](#) shall apply to the division for a tax credit certificate.

(3) The person shall include in the application for a tax credit certificate the following information for the year in which the person seeks a tax credit certificate:

(a) evidence that the person built a new single family or multifamily home;

(b) a list of any WaterSense fixtures or water wise landscaping the person purchased and installed;

(c) the cost to purchase and install each WaterSense fixture or water wise landscaping project; and

(d) any other information required by the division that relates to the person's eligibility for a tax credit.

(4) (a) The division shall issue a tax credit certificate to a person that the division determines has eligible expenses for the taxable year.

(b) Subject to Subsections (4)(c) and (5), the tax credit certificate shall state the amount of tax credit, which is an amount equal to 10% of eligible expenses.

(c) The maximum amount of tax credit that the division may certify per person in a taxable year is \$100,000.

(d) A person that receives a tax credit certificate in accordance with this section shall

retain the tax credit certificate for the same time period that a person is required to keep books and records under Section [59-1-1406](#).

(5) (a) The maximum aggregate amount of tax credit certificates the division may issue over three years is \$10,000,000.

(b) (i) The division may issue up to \$3,000,000 in tax credit certificates for a taxable year beginning on or after January 1, 2023, but beginning before January 1, 2024.

(ii) The division may issue up to \$3,000,000 in tax credit certificates for a taxable year beginning on or after January 1, 2024, but beginning before January 1, 2025.

(iii) The division may issue the difference between \$10,000,000 and the amounts issued in tax credit certificates in accordance with Subsections (5)(b)(i) and (ii) for a taxable year beginning on or after January 1, 2025, but beginning before January 1, 2026.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall establish by rule a process for prioritizing tax credit certificate applications if the qualifying application amounts exceed the aggregate amount of tax credit certificates that the division may issue for the year.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules defining water efficient landscaping.

(7) (a) The division shall submit to the State Tax Commission an electronic list that includes:

(i) the name and identifying information for each person to which the division issues a tax credit certificate; and

(ii) for each person, the amount of the tax credit stated on the tax credit certificate.

(b) The division shall provide the electronic list described in Subsection (7)(a) on or before January 31 of the year following the year in which the division issued the certificates.

Section 7. **Retrospective operation.**

(1) The following sections have retrospective operation to January 1, 2023:

(a) Section [73-10-18](#); and

(b) Section [73-10-38](#).

(2) The following sections have retrospective operation for a taxable year beginning on or after January 1, 2023:

(a) Section [59-7-627](#); and

183 (b) Section [59-10-1046](#).