

1 **NAVAJO WATER RIGHTS NEGOTIATION**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: David P. Hinkins**

5 House Sponsor: Phil Lyman

6 Cosponsor:

7 Jani Iwamoto

8

9 **LONG TITLE**

10 **General Description:**

11 This bill addresses the process to finalize negotiations of Navajo water rights.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ modifies the conditions to be met before money may be transferred from the fund;

16 and

- 17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 This bill appropriates in fiscal year 2022:

20 ▶ to the General Fund Restricted -- Navajo Water Rights Negotiation Account, as a
21 one-time appropriation:

- 22 • from the General Fund Budget Reserve Account, \$6,000,000.

23 ▶ to the Department of Natural Resources -- Division of Water Rights, as a one-time
24 appropriation:

25 • from the General Fund Restricted -- Navajo Water Rights Negotiation Account,
26 \$8,000,000.

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **51-9-702**, as enacted by Laws of Utah 2012, Chapter 276

32 **63J-1-602.2**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20



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

35 Section 1. Section **51-9-702** is amended to read:

36 **51-9-702. Navajo Water Rights Negotiation Account -- Settlement.**

37 (1) As used in this section:

38 (a) "Conformed agreement" means an agreement required by congressional action and
39 that the parties to the settlement agreement have agreed to enter into to complete the settlement
40 process.

41 (b) "Congressional action" means the United States Congress's approval of the
42 settlement agreement with passage of H. R. 133, Consolidated Appropriations Act, 2021,
43 Section 1102, the Navajo-Utah Water Rights Settlement.

44 (c) "Settlement agreement" means the document titled "Navajo Utah Water Rights
45 Settlement Agreement" dated December 14, 2015, and the exhibits attached to the document.

46 ~~[(1)]~~ (2) (a) There is created a restricted account within the General Fund known as the
47 "Navajo Water Rights Negotiation Account."

48 (b) The restricted account shall consist of appropriations made by the Legislature.

49 (c) The Division of Finance shall:

50 (i) administer the account; and

51 (ii) deposit interest earned on the account into the General Fund.

52 ~~[(2)]~~ (3) Subject to Subsection ~~[(3)]~~ (4), the Legislature may appropriate money from
53 the restricted account only to plan, design, and construct drinking water projects to serve
54 populations located on the Navajo Nation reservation within the boundaries of Utah.

55 ~~[(3) Before appropriating money from the account for the purpose specified in~~
56 ~~Subsection (2), the Legislature shall ensure that the state of Utah has:]~~

57 ~~[(a) a signed, enforceable agreement on Navajo water rights with the Navajo Nation~~
58 ~~and the United States government; and]~~

59 ~~[(b) a signed, enforceable project repayment agreement with the United States~~
60 ~~Department of the Interior.]~~

61 (4) Before transferring money appropriated from the account under the settlement
62 agreement and congressional action for the purposes described in Subsection (3):

63 (a) the state engineer, appointed under Section 73-2-1, shall:

64 (i) determine whether the conformed agreement is consistent with the settlement
65 agreement in all material respects;

66 (ii) if the conformed agreement is consistent with the settlement agreement in all
67 material respects, recommend that the governor sign the conformed agreement; and

68 (iii) submit the state engineer's findings and recommendation under this Subsection
69 (4)(a) in writing to the governor and the Legislative Management Committee;

70 (b) the governor shall sign the conformed agreement; and

71 (c) all parties have signed the conformed agreement.

72 ~~[(4)]~~ (5) Creation of the account and appropriations into the account do not:

73 (a) create a state obligation to provide funding for the planning, design, or construction
74 of drinking water projects to serve populations located on the Navajo Nation reservation within
75 the boundaries of the state; and

76 (b) constitute an acknowledgment or admission by the state ~~[of Utah]~~ of any legal
77 liability or obligation.

78 Section 2. Section **63J-1-602.2** is amended to read:

79 **63J-1-602.2. List of nonlapsing appropriations to programs.**

80 Appropriations made to the following programs are nonlapsing:

81 (1) The Legislature and the Legislature's committees.

82 (2) The State Board of Education, including all appropriations to agencies, line items,
83 and programs under the jurisdiction of the State Board of Education, in accordance with
84 Section **53F-9-103**.

- 85 (3) The Percent-for-Art Program created in Section [9-6-404](#).
- 86 (4) The LeRay McAllister Critical Land Conservation Program created in Section
- 87 [11-38-301](#).
- 88 (5) Dedicated credits accrued to the Utah Marriage Commission as provided under
- 89 Subsection [17-16-21\(2\)\(d\)\(ii\)](#).
- 90 (6) The Trip Reduction Program created in Section [19-2a-104](#).
- 91 (7) The Division of Wildlife Resources for the appraisal and purchase of lands under
- 92 the Pelican Management Act, as provided in Section [23-21a-6](#).
- 93 (8) The emergency medical services grant program in Section [26-8a-207](#).
- 94 (9) The primary care grant program created in Section [26-10b-102](#).
- 95 (10) Sanctions collected as dedicated credits from Medicaid provider under Subsection
- 96 [26-18-3\(7\)](#).
- 97 (11) The Utah Health Care Workforce Financial Assistance Program created in Section
- 98 [26-46-102](#).
- 99 (12) The Rural Physician Loan Repayment Program created in Section [26-46a-103](#).
- 100 (13) The Opiate Overdose Outreach Pilot Program created in Section [26-55-107](#).
- 101 (14) Funds that the Department of Alcoholic Beverage Control retains in accordance
- 102 with Subsection [32B-2-301\(8\)\(a\)](#) or (b).
- 103 (15) The General Assistance program administered by the Department of Workforce
- 104 Services, as provided in Section [35A-3-401](#).
- 105 (16) A new program or agency that is designated as nonlapsing under Section
- 106 [36-24-101](#).
- 107 (17) The Utah National Guard, created in Title 39, Militia and Armories.
- 108 (18) The State Tax Commission under Section [41-1a-1201](#) for the:
- 109 (a) purchase and distribution of license plates and decals; and
- 110 (b) administration and enforcement of motor vehicle registration requirements.
- 111 (19) The Search and Rescue Financial Assistance Program, as provided in Section
- 112 [53-2a-1102](#).

- 113 (20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.
- 114 (21) The Utah Board of Higher Education for teacher preparation programs, as
115 provided in Section 53B-6-104.
- 116 (22) The Medical Education Program administered by the Medical Education Council,
117 as provided in Section 53B-24-202.
- 118 (23) The Division of Services for People with Disabilities, as provided in Section
119 62A-5-102.
- 120 (24) The Division of Fleet Operations for the purpose of upgrading underground
121 storage tanks under Section 63A-9-401.
- 122 (25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.
- 123 (26) Appropriations to the Department of Technology Services for technology
124 innovation as provided under Section 63F-4-202.
- 125 (27) The Office of Administrative Rules for publishing, as provided in Section
126 63G-3-402.
- 127 (28) The Governor's Office of Economic Development to fund the Enterprise Zone
128 Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- 129 (29) Appropriations to fund the Governor's Office of Economic Development's Rural
130 Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural
131 Employment Expansion Program.
- 132 (30) Appropriations to fund programs for the Jordan River Recreation Area as
133 described in Section 65A-2-8.
- 134 (31) The Department of Human Resource Management user training program, as
135 provided in Section 67-19-6.
- 136 (32) A public safety answering point's emergency telecommunications service fund, as
137 provided in Section 69-2-301.
- 138 (33) The Traffic Noise Abatement Program created in Section 72-6-112.
- 139 (34) The money appropriated from the Navajo Water Rights Negotiation Account to
140 the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a

141 settlement of federal reserved water right claims.

142 [~~34~~] (35) The Judicial Council for compensation for special prosecutors, as provided
143 in Section 77-10a-19.

144 [~~35~~] (36) A state rehabilitative employment program, as provided in Section
145 78A-6-210.

146 [~~36~~] (37) The Utah Geological Survey, as provided in Section 79-3-401.

147 [~~37~~] (38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

148 [~~38~~] (39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144,
149 and 78B-6-144.5.

150 [~~39~~] (40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent
151 Defense Commission.

152 [~~40~~] (41) The program established by the Division of Facilities Construction and
153 Management under Section 63A-5b-703 under which state agencies receive an appropriation
154 and pay lease payments for the use and occupancy of buildings owned by the Division of
155 Facilities Construction and Management.

156 Section 3. **Appropriation.**

157 The following sums of money are appropriated for the fiscal year beginning July 1,
158 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for
159 fiscal year 2022.

160 Subsection (3)(a). **Restricted Fund and Account Transfers.**

161 The Legislature authorizes the State Division of Finance to transfer the following
162 amounts between the following funds or accounts indicated. Expenditures and outlays from the
163 funds to which the money is transferred must be authorized by an appropriation.

164 ITEM 1

165 To General Fund Restricted -- Navajo Water Rights Negotiation Account

166 From General Fund Budget Reserve Account, One-time \$6,000,000

167 Schedule of Programs:

168 Navajo Water Rights Negotiation Account \$6,000,000

169 Subsection (3)(b). **Operating and Capital Budgets.**

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

173 ITEM 2

174 To Department of Natural Resources -- Water Rights

175 From General Fund Restricted -- Navajo Water Rights

176 Negotiation Account, One-time \$8,000,000

177 Schedule of Programs:

178 Adjudication \$8,000,000