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**AMENDMENTS RELATED TO MONIES
DERIVED FROM NAVAJO NATION
RESERVATION LANDS IN UTAH**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David Clark

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions related to the repealed Navajo Trust Fund and the Navajo Revitalization Fund Act to provide for a transition until Congress designates a new recipient of Utah Navajo royalties.

Highlighted Provisions:

This bill:

- ▶ addresses definitions;
- ▶ modifies the structure of the revitalization fund board;
- ▶ modifies a matching requirement related to powers and activities of the board;
- ▶ provides for a transition process until Congress designates a new recipient of Utah Navajo royalties, including imposing one or more obligations on the governor, state auditor, state treasurer, and divisions of the Department of Administrative Services;
- ▶ clarifies the revitalization fund's exemption from legislative approval for a capital development project; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:



28 This bill provides an immediate effective date.

29 This bill provides revisor instructions.

30 This bill coordinates with H.B. 63, Recodification of Title 63 State Affairs in General,
31 providing technical renumbering.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **9-11-102**, as last amended by Laws of Utah 2004, Chapter 18

35 **9-11-105**, as last amended by Laws of Utah 1998, Chapter 48

36 **9-11-107**, as last amended by Laws of Utah 2007, Chapter 104

37 **63A-5-104**, as last amended by Laws of Utah 2007, Chapter 12

38 ENACTS:

39 **63-88a-101**, Utah Code Annotated 1953

40 **63-88a-102**, Utah Code Annotated 1953

41 **63-88a-103**, Utah Code Annotated 1953

42 **63-88a-104**, Utah Code Annotated 1953



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

45 Section 1. Section **9-11-102** is amended to read:

46 **9-11-102. Definitions.**

47 As used in this chapter:

48 (1) "Board" means the Navajo Revitalization Fund Board.

49 (2) "Capital [~~projects~~ means expenditures] project" means an expenditure for land,
50 improvements on the land, [~~and~~] or equipment intended to have long-term beneficial use.

51 (3) "Division" means the Division of Housing and Community Development.

52 (4) "Eligible [~~entities~~] entity" means:

53 (a) the Navajo Nation;

54 (b) a department or division of the Navajo Nation;

55 (c) a Utah Navajo Chapter[~~, as defined in Section 63-88-101~~];

56 (d) the Navajo Utah Commission;

57 (e) an agency of the state or a political subdivision of the state; or

58 [~~(f) the Navajo Trust Fund established under Title 63, Chapter 88, Navajo Trust Fund;~~

59 or]

60 [~~(g)~~] (f) a nonprofit corporation.

61 (5) "Navajo Utah Commission" means the commission created by Resolution
62 IGRJN-134-92 of the Intergovernmental Relations Committee of the Navajo Nation Council.

63 (6) "Revitalization fund" [~~or "fund"~~] means the Navajo Revitalization Fund.

64 (7) "Utah Navajo Chapter" means any of the following chapters of the Navajo Nation:

65 (a) Aneth Chapter;

66 (b) Dennehotso Chapter;

67 (c) Mexican Water Chapter;

68 (d) Navajo Mountain Chapter;

69 (e) Oljato Chapter;

70 (f) Red Mesa Chapter; and

71 (g) Teec Nos Pos Chapter.

72 Section 2. Section **9-11-105** is amended to read:

73 **9-11-105. Navajo Revitalization Fund Board.**

74 (1) There is created within the division the Navajo Revitalization Board composed of
75 five members as follows:

76 (a) the governor or the governor's designee;

77 (b) the two members of the San Juan County commission whose districts include
78 portions of the Navajo Reservation;

79 (c) the chair of the Navajo Utah Commission or a member of the commission
80 designated by the chair of the Navajo Utah Commission; and

81 (d) (i) ending June 30, 2008, the chair of the Utah Dineh Committee, as created in
82 Section 63-88-107, or a member of the committee designated by the chair[-]; and

83 (ii) beginning July 1, 2008, a president of a Utah Navajo Chapter or an individual
84 designated by the president under an annual rotation system of Utah Navajo Chapters as
85 follows:

86 (A) the president of a Utah Navajo Chapter shall serve for one year;

87 (B) the Utah Navajo Chapter is rotated in alphabetical order as provided in Subsection
88 9-11-102(7), except that the rotation will begin on July 1, 2008 with the Dennehotso Chapter;

89 (C) if the president of a Utah Navajo Chapter under Subsection (1)(d)(ii)(B) is the

90 same individual as the individual listed in Subsection (1)(c):

91 (I) that Utah Navajo Chapter is skipped as part of that rotation; and

92 (II) the president of the next Utah Navajo Chapter in the alphabetical rotation shall
93 serve on the board.

94 (2) The ~~[terms]~~ term of office for ~~[the members]~~ a member of the board ~~[shall run]~~
95 described in Subsections (1)(a) through (c) runs concurrently with the ~~[terms]~~ term of office for
96 the governor, county ~~[commissioners;]~~ commissioner, or member of the Navajo Utah
97 Commission~~[, and member of the Utah Dineh Committee].~~

98 (3) (a) The governor, or the governor's designee, ~~[shall be]~~ is the chair of the board
99 ~~[and the].~~

100 (b) The chair ~~[is responsible to]~~ shall call necessary meetings.

101 (4) (a) (i) ~~[Members who are not government employees]~~ A member who is not a
102 government employee of the state or local government ~~[shall receive no]~~ may not receive
103 compensation or benefits for [their] the member's services, but may receive per diem and
104 expenses incurred in the performance of the member's official duties at the rates established by
105 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

106 (ii) ~~[Members]~~ A member who is not a government employee of the state or local
107 government may decline to receive per diem and expenses for ~~[their]~~ the member's service.

108 (b) (i) ~~[State]~~ A state government officer ~~[and]~~ or employee ~~[members]~~ member who
109 ~~[do]~~ does not receive salary, per diem, or expenses from ~~[their]~~ the member's agency for ~~[their]~~
110 the member's service may receive per diem and expenses incurred in the performance of ~~[their]~~
111 the member's official duties from the board at the rates established by the Division of Finance
112 under Sections 63A-3-106 and 63A-3-107.

113 (ii) ~~[State]~~ A state government officer ~~[and]~~ or employee ~~[members]~~ member may
114 decline to receive per diem and expenses for ~~[their]~~ the member's service.

115 (c) (i) ~~[Local]~~ A local government ~~[members]~~ member who ~~[do]~~ does not receive
116 salary, per diem, or expenses from the entity that ~~[they represent for their]~~ the member
117 represents for the member's service may receive per diem and expenses incurred in the
118 performance of ~~[their]~~ the member's official duties at the rates established by the Division of
119 Finance under Sections 63A-3-106 and 63A-3-107.

120 (ii) ~~[Local]~~ A local government ~~[members]~~ member may decline to receive per diem

121 and expenses for ~~[their]~~ the member's service.

122 (d) The per diem and expenses permitted under this Subsection (4) may be included as
123 costs of administration of the revitalization fund.

124 (5) Four board members are a quorum.

125 (6) ~~[Any board decisions related to monies in or disbursed from the fund requires the]~~
126 An affirmative vote of each member of the board present at a meeting when a quorum is
127 present is required for a board decision related to monies in or disbursed from the revitalization
128 fund.

129 Section 3. Section **9-11-107** is amended to read:

130 **9-11-107. Revitalization fund administered by board -- Eligibility for assistance --**
131 **Review by board -- Restrictions on loans and grants -- Division to distribute monies.**

132 (1) (a) If an eligible entity wishes to receive a loan or grant from the board, the eligible
133 entity shall ~~[apply to]~~ file an application with the board~~[- The application shall contain]~~ that
134 contains the information required by the board.

135 (b) The board shall review ~~[each]~~ an application for a loan or grant filed under
136 Subsection (1)(a) before approving the loan or grant.

137 (c) The board may approve a loan or grant ~~[applications]~~ application subject to the
138 applicant's compliance with ~~[certain]~~ the one or more conditions established by the board.

139 (2) In determining whether an eligible entity may receive a loan or grant, the board
140 shall give priority to:

141 (a) a capital ~~[projects and]~~ project or infrastructure, including:

142 (i) electrical power~~[-];~~

143 (ii) water~~[-];~~ and ~~[other]~~

144 (iii) a one time need ~~[projects]~~ project;

145 (b) a housing ~~[projects that consist]~~ project that consists of:

146 (i) the purchase of new housing;

147 (ii) the construction of new housing; or

148 (iii) a significant remodeling of existing housing; or

149 (c) a matching educational ~~[endowments]~~ endowment that:

150 (i) ~~[promote]~~ promotes economic development within the Utah portion of the Navajo
151 Reservation;

152 (ii) [~~promote~~] promotes the preservation of Navajo culture, history, and language; or
153 (iii) [~~support~~] supports a postsecondary educational [~~opportunities~~] opportunity for a
154 Navajo [~~students~~] student enrolled in [~~courses or programs~~] a course or program taught within
155 the Utah portion of the Navajo Reservation.

156 (3) A loan or grant issued under this chapter may not fund:

157 (a) a start-up or operational [~~costs~~] cost of a private business [~~ventures~~] venture;

158 (b) a general operating [~~budgets~~] budget of [~~the~~] an eligible [~~entities~~] entity; or

159 (c) a project [~~or program~~] that will operate or be located outside of the Navajo
160 Reservation in San Juan County, Utah, except for an educational [~~endowments~~] endowment
161 approved by the board under Subsection (2)(c).

162 (4) (a) The board may not approve a loan unless the loan:

163 (i) specifies the terms for repayment; and

164 (ii) is secured by proceeds from a general obligation, special assessment, or revenue
165 bond, note, or other obligation.

166 (b) [~~Any~~] The division shall deposit a loan repayment or interest on a loan issued under
167 this chapter [~~shall be deposited~~] into the revitalization fund.

168 (5) The board [~~may not approve~~] shall give a priority to a loan or grant [~~unless~~] if the
169 loan or grant [~~provides for~~] includes matching monies or in-kind services from:

170 (a) the Navajo Nation;

171 [~~(b) the Navajo Trust Fund;~~]

172 [~~(c)~~] (b) San Juan County;

173 [~~(d)~~] (c) the state;

174 [~~(e)~~] (d) the federal government;

175 [~~(f)~~] (e) a Utah Navajo Chapter [~~, as defined in Section 63-88-101~~]; or

176 [~~(g)~~] (f) other private or public organization.

177 (6) The division shall distribute loan and grant monies:

178 (a) if the loan or grant is approved by the board;

179 (b) in accordance with the instructions of the board, except that the board may not
180 instruct that monies be distributed in a manner:

181 (i) inconsistent with this chapter; or

182 (ii) in violation of [~~rules and procedures~~] a rule or procedure of the department; and

183 (c) in the case of a loan, in accordance with Section 63A-3-205.

184 Section 4. Section **63-88a-101** is enacted to read:

185 **CHAPTER 88a. TRANSITION FOR REPEALED NAVAJO TRUST FUND ACT**

186 **63-88a-101. Title.**

187 This chapter is known as the "Transition for Repealed Navajo Trust Fund Act."

188 Section 5. Section **63-88a-102** is enacted to read:

189 **63-88a-102. Definitions.**

190 As used in this chapter:

191 (1) "Liability or obligation" includes only an action specifically approved by the
192 majority of the repealed board of trustees in a meeting of the repealed board of trustees.

193 (2) "Related assets and liabilities" means the assets, liabilities, and obligations of the
194 repealed Navajo Trust Fund as of June 30, 2008.

195 (3) "Repealed board of trustees" means the board of trustees appointed under Title 63,
196 Chapter 88, Navajo Trust Fund, repealed under Title 63, Chapter 55, Legislative Oversight and
197 Sunset Act.

198 (4) "Repealed Dineh Committee" means the Dineh Committee established under Title
199 63, Chapter 88, Navajo Trust Fund, repealed under Title 63, Chapter 55, Legislative Oversight
200 and Sunset Act.

201 (5) "Repealed Navajo Trust Fund" means the Navajo Trust Fund established under
202 Title 63, Chapter 88, Navajo Trust Fund, repealed under Title 63, Chapter 55, Legislative
203 Oversight and Sunset Act.

204 (6) "Repealed trust administrator" means the trust administrator appointed under Title
205 63, Chapter 88, Navajo Trust Fund, repealed under Title 63, Chapter 55, Legislative Oversight
206 and Sunset Act.

207 (7) "Utah Navajo royalties" means the revenues received by the state that represent the
208 37-1/2% of the net oil royalties from the Aneth Extension of the Navajo Indian Reservation
209 required by P.L. 72-403, 47 Stat. 1418, and P.L. 90-306, 82 Stat. 121, to be paid to the state.

210 Section 6. Section **63-88a-103** is enacted to read:

211 **63-88a-103. Purpose statement.**

212 It is the purpose of this chapter to provide for a transitional process until congressional
213 action designates a new recipient of the Utah Navajo royalties.

214 Section 7. Section **63-88a-104** is enacted to read:

215 **63-88a-104. Utah Navajo royalties and related issues.**

216 (1) (a) Notwithstanding Title 63, Chapter 88, Navajo Trust Fund and except as
 217 provided in Subsection (7), the following are subject to this Subsection (1):

218 (i) the repealed board of trustees;

219 (ii) the repealed trust administrator;

220 (iii) an employee or agent of the repealed Navajo Trust Fund; or

221 (iv) the repealed Dineh Committee.

222 (b) The repealed board of trustees may not:

223 (i) beginning on the effective date of this bill, take an action that imposes or may
 224 impose a liability or obligation described in Subsection (1)(d) that is:

225 (A) anticipated to be completed on or after January 1, ~~H~~→ [2009] 2010 ←~~H~~ ; or

226 (B) equal to or greater than \$100,000;

227 (ii) on or after May 5, 2008, take an action that imposes or may impose a liability or
 228 obligation described in Subsection (1)(d).

229 (c) On or after the effective date of this bill a person described in Subsections (1)(a)(ii)
 230 through (iv) may not take an action that imposes or may impose a liability or obligation
 231 described in Subsection (1)(d).

232 (d) Subsection (1)(b) applies to a liability or obligation on:

233 (i) the repealed Navajo Trust Fund;

234 (ii) the Navajo Revitalization Fund created under Title 9, Chapter 11, Navajo
 235 Revitalization Fund Act;

236 (iii) the state; or

237 (iv) any of the following related to an entity described in this Subsection (1)(d)(iv):

238 (A) a department;

239 (B) a division;

240 (C) an office;

241 (D) a committee;

242 (E) a board;

243 (F) an officer;

244 (G) an employee; or

245 (H) a similar agency or individual.

246 (2) The Division of Finance shall:

247 (a) establish a fund by no later than July 1, 2008:

248 (i) to hold:

249 (A) the monies in the repealed Navajo Trust Fund as of June 30, 2008;

250 (B) Utah Navajo royalties received by the state on or after July 1, 2008;

251 (C) revenues from investments made by the state treasurer of the monies in the fund
 252 established under this Subsection (2)(a); and

253 (D) monies owed to the repealed Navajo Trust Fund, including monies received by the
 254 repealed trust administrator or repealed Dineh Committee from an agreement executed by:

255 (I) the repealed board of trustees;

256 (II) the repealed trust administrator; or

257 (III) the repealed Dineh Committee; and

258 (ii) from which monies may not be transferred or expended, except:

259 (A) as provided in Subsection (7); or

260 (B) as authorized by congressional action to designate a new recipient of the Utah
 261 Navajo royalties; and

262 (b) by no later than July 1, 2008, transfer to the fund created under Subsection (2)(a) in
 263 a manner consistent with this section the related assets and liabilities of the repealed Navajo
 264 Trust Fund, including the transfer of monies in the repealed Navajo Trust Fund.

265 (3) The state treasurer shall invest monies in the fund created in Subsection (2)(a) in
 266 accordance with Title 51, Chapter 7, State Money Management Act.

267 (4) (a) By no later than May 5, 2008 the repealed board of trustees shall:

268 (i) adopt a list of all ~~H→~~ **[liabilities or obligations] related assets and liabilities** ~~←H~~ of the
 268a repealed trust fund that are not
 269 satisfied by May 5, 2008 ~~H→~~ , which may include assets and liabilities that are contingent in
 269a nature or amount ~~←H~~ ;

270 (ii) adopt a list of all individuals who at the time of adoption meet the requirements of
 271 Subsection (7)(b); and

272 (iii) provide a copy of the lists described in Subsection (4)(a)(i) and (ii) to:

273 (A) the state auditor; and

274 (B) the Department of Administrative Services.

275 (b) The state auditor, in addition to completing its Fiscal Year 2007-2008 audit of the

276 repealed Navajo Trust Fund, shall:

277 (i) ~~H→~~ [conduct an inventory] verify the list ~~←H~~ of the related assets and liabilities of the
277a repealed Navajo

278 Trust Fund ~~H→~~ [to be completed] adopted by the repealed board of trustees under Subsection
278a (4)(a) ~~←H~~ by no later than June 30, 2008; and

279 (ii) provide a written copy of the ~~H→~~ [inventory] verification ~~←H~~ to the governor and the
279a Legislature by no
280 later than July 30, 2008.

281 (5) The governor shall ensure that the reporting requirements under P.L. 90-306, 82
282 Stat. 121, are met.

283 (6) The Department of Administrative Services, in cooperation with the Department of
284 Human Resources, may assist employees of the repealed Navajo Trust Fund as of June 30,
285 2008, in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

286 (7) With the fund created under Subsection (2) and the fixed assets of the repealed
287 Navajo Trust Fund, the Department of Administrative Services shall:

288 (a) fulfill the liabilities and obligations of the repealed Navajo Trust Fund as of June
289 30, 2008;

290 (b) ~~H→~~ [fulfill the obligations of the repealed Navajo Trust Fund as of June 30, 2008 related
291 to] provide ~~←H~~ monies ~~H→~~ [granted] ~~←H~~ to an individual enrolled member of the
291a Navajo Nation who:

292 (i) resides in San Juan County;

293 (ii) as of June 30, ~~H→~~ [2008] 2010 ~~←H~~ , has received monies ~~H→~~ [from the repealed
293a Navajo Trust Fund] under this Subsection (7)(b) ~~←H~~ for
294 postsecondary education;

295 (iii) ~~H→~~ beginning the later of June 30 or the day on which the individual first receives
295a monies under this Subsection (7)(b), ~~←H~~ is enrolled in postsecondary education for the
295b equivalent of at least two semesters
296 each year; and

297 (iv) meets the eligibility requirements adopted by the repealed board of trustees as of
298 the effective date of this bill;

299 (c) through the Division of Facilities Construction and Management, reasonably
300 maintain the fixed assets of the repealed Navajo Trust Fund, to the extent that a lessee of a
301 fixed asset is not required by a lease to maintain a fixed asset; ~~H→~~ [and] ~~←H~~

302 (d) through the Division of Facilities Construction and Management, take those steps
303 necessary to secure the purchase:

304 (i) of the following that is owned by the repealed Navajo Trust Fund as of May 5,
305 2008:

306 (A) the government service building; or

307 (B) another fixed asset of the repealed Navajo Trust Fund, if the sale of the fixed asset
 308 is consistent with the obligations of the state with regard to the Utah Navajo royalties; and
 309 (ii) (A) in an arms length manner; and
 310 (B) so that fair market compensation is paid to the repealed Navajo Trust Fund ~~H~~ ; and
 310a (e) charge the fund established under Subsection (2)(a) for the expenses that are
 310b necessary and reasonable to comply with the requirements of this Subsection (7) ~~H~~ .
 311 (8) Unless expressly prohibited by this chapter, the state may take any action with
 312 regard to the assets held by the state under this chapter that is consistent with the obligations of
 313 the state related to the Utah Navajo royalties.

314 Section 8. Section **63A-5-104** is amended to read:

315 **63A-5-104. Capital development and capital improvement process -- Approval**
 316 **requirements -- Limitations on new projects -- Emergencies.**

317 (1) As used in this section:

318 (a) "Capital developments" means [any] a:

319 (i) remodeling, site, or utility [projects] project with a total cost of \$2,500,000 or more;

320 (ii) new facility with a construction cost of \$500,000 or more; or

321 (iii) purchase of real property where an appropriation is requested to fund the purchase.

322 (b) "Capital improvements" means [any] a:

323 (i) remodeling, alteration, replacement, or repair project with a total cost of less than
 324 \$2,500,000;

325 (ii) site and utility improvement with a total cost of less than \$2,500,000; or

326 (iii) new facility with a total construction cost of less than \$500,000.

327 (c) (i) "New facility" means the construction of [any] a new building on state property
 328 regardless of funding source.

329 (ii) "New facility" includes:

330 (A) an addition to an existing building; and

331 (B) the enclosure of space that was not previously fully enclosed.

332 (iii) "New facility" does not mean:

333 (A) the replacement of state-owned space that is demolished or that is otherwise
 334 removed from state use, if the total construction cost of the replacement space is less than
 335 \$2,500,000; or

336 (B) the construction of facilities that do not fully enclose a space.

337 (d) "Replacement cost of existing state facilities" means the replacement cost, as

338 determined by the Division of Risk Management, of state facilities, excluding auxiliary
339 facilities as defined by the State Building Board.

340 (e) "State funds" means public monies appropriated by the Legislature.

341 (2) The State Building Board, on behalf of all state agencies, commissions,
342 departments, and institutions shall submit its capital development recommendations and
343 priorities to the Legislature for approval and prioritization.

344 (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development
345 project may not be constructed on state property without legislative approval.

346 (b) Legislative approval is not required for a capital development project if the State
347 Building Board determines that:

348 (i) the requesting higher education institution has provided adequate assurance that:

349 (A) state funds will not be used for the design or construction of the facility; and

350 (B) the higher education institution has a plan for funding in place that will not require
351 increased state funding to cover the cost of operations and maintenance to, or state funding for,
352 immediate or future capital improvements to the resulting facility; and

353 (ii) the use of the state property is:

354 (A) appropriate and consistent with the master plan for the property; and

355 (B) will not create an adverse impact on the state.

356 (c) (i) The Division of Facilities Construction and Management shall maintain a record
357 of facilities constructed under the exemption provided in Subsection (3)(b).

358 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a
359 higher education institution may not request:

360 (A) increased state funds for operations and maintenance; or

361 (B) state capital improvement funding.

362 (d) Legislative approval is not required for:

363 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds;

364 (ii) ~~facilities~~ a facility to be built with nonstate funds and owned by nonstate entities
365 within research park areas at the University of Utah and Utah State University;

366 (iii) ~~facilities~~ a facility to be built at This is the Place State Park by This is the Place
367 Foundation with funds of the foundation, including grant monies from the state, or with
368 donated services or materials;

369 (iv) a capital [~~projects~~] project that [~~are~~]:

370 (A) is funded by [~~the Navajo Trust Fund Board from Navajo Trust Fund monies and~~];

371 (I) the Uintah Basin Revitalization Fund [~~that do~~]; or

372 (II) the Navajo Revitalization Fund; and

373 (B) does not provide a new facility for a state agency or higher education institution; or

374 (v) a capital [~~projects~~] project on school and institutional trust lands that [~~are~~] is funded

375 by the School and Institutional Trust Lands Administration from the Land Grant Management

376 Fund and that [~~do~~] does not fund construction of a new facility for a state agency or higher

377 education institution.

378 (e) (i) Legislative approval is not required for capital development projects to be built

379 for the Department of Transportation as a result of an exchange of real property under Section

380 72-5-111.

381 (ii) When the Department of Transportation approves those exchanges, it shall notify

382 the president of the Senate, the speaker of the House, and the cochairs of the Capital Facilities

383 and Administrative Services Subcommittee of the Legislature's Joint Appropriation Committee

384 about any new facilities to be built under this exemption.

385 (4) (a) The State Building Board, on behalf of all state agencies, commissions,

386 departments, and institutions shall by January 15 of each year, submit a list of anticipated

387 capital improvement requirements to the Legislature for review and approval.

388 (b) Unless otherwise directed by the Legislature, the building board shall prioritize

389 capital improvements from the list submitted to the Legislature up to the level of appropriation

390 made by the Legislature.

391 (c) In prioritizing capital improvements, the building board shall consider the results of

392 facility evaluations completed by an architect/engineer as stipulated by the building board's

393 facilities maintenance standards.

394 (d) The building board may require an entity that benefits from a capital improvement

395 project to repay the capital improvement funds from savings that result from the project.

396 (5) The Legislature may authorize:

397 (a) the total square feet to be occupied by each state agency; and

398 (b) the total square feet and total cost of lease space for each agency.

399 (6) (a) Except as provided in Subsection (6)(b), the Legislature may not fund the design

400 or construction of any new capital development projects, except to complete the funding of
401 projects for which partial funding has been previously provided, until the Legislature has
402 appropriated 1.1% of the replacement cost of existing state facilities to capital improvements.

403 (b) (i) As used in this Subsection (6)(b), "operating deficit" means that estimated
404 General Fund or Uniform School Fund revenues are less than budgeted for the current or next
405 fiscal year.

406 (ii) If the Legislature determines that an operating deficit exists, the Legislature may, in
407 eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the
408 replacement cost of state buildings.

409 (7) (a) If, after approval of capital development and capital improvement priorities by
410 the Legislature under this section, emergencies arise that create unforeseen critical capital
411 improvement projects, the State Building Board may, notwithstanding the requirements of Title
412 63, Chapter 38, Budgetary Procedures Act, reallocate capital improvement funds to address
413 those projects.

414 (b) The building board shall report any changes it makes in capital improvement
415 allocations approved by the Legislature to:

416 (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

417 (ii) the Legislature at its next annual general session.

418 (8) (a) The State Building Board may adopt a rule allocating to institutions and
419 agencies their proportionate share of capital improvement funding.

420 (b) The building board shall ensure that the rule:

421 (i) reserves funds for the Division of Facilities Construction and Management for
422 emergency projects; and

423 (ii) allows the delegation of projects to some institutions and agencies with the
424 requirement that a report of expenditures will be filed annually with the Division of Facilities
425 Construction and Management and appropriate governing bodies.

426 (9) It is the intent of the Legislature that in funding capital improvement requirements
427 under this section the General Fund be considered as a funding source for at least half of those
428 costs.

429 **Section 9. Effective date.**

430 If approved by two-thirds of all the members elected to each house, this bill takes effect

431 upon approval by the governor, or the day following the constitutional time limit of Utah
432 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
433 the date of veto override.

434 Section 10. **Revisor instructions.**

435 It is the intent of the Legislature that in preparing the Utah Code database for
436 publication the Office of Legislative Research and General Counsel replace the phrase "the
437 effective date of this bill" with the actual effective date in the following Utah Code sections:

438 (1) Subsections 63-88a-104(1)(b)(i) and (1)(c); and

439 (2) Subsection 63-88a-104(7)(b)(iv).

440 Section 11. **Coordinating H.B. 352 with H.B. 63 -- Technical renumbering.**

441 If this H.B. 352 and H.B. 63, Recodification of Title 63 State Affairs in General, both
442 pass, it is the intent of the Legislature that the Office of Legislative Research and General
443 Counsel in preparing the Utah Code database for publication:

444 (1) renumber Sections 63-88a-101 through 63-88a-104 as Sections 51-9-501 through
445 51-9-504;

446 (2) not renumber or make the changes to Title 63, Chapter 88, provided in H.B. 63,
447 except the Office of Legislative Research and General Counsel shall make:

448 (a) the citation change in Subsections 63-88-103(2)(a)(i) and 63-88-106(2)(a)(i) to
449 Title 63G, Chapter 6, Utah Procurement Code; and

450 (b) the citation change in Subsection 63-88-106(6)(a) to Title 63G, Chapter 3, Utah
451 Administrative Rulemaking Act; and

452 (3) not make the amendments in H.B. 63 to the following:

453 (a) Section 9-11-102;

454 (b) Section 9-11-105;

455 (c) Section 9-11-107; and

456 (d) Subsection 63I-1-263(8) as renumbered in H.B. 63.

Legislative Review Note
as of 1-28-08 2:14 PM

Office of Legislative Research and General Counsel

Fiscal Note

**H.B. 352 - Amendments Related to Monies Derived from Navajo Nation
Reservation Lands in Utah**

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
