

**MINUTES OF THE HOUSE
NATURAL RESOURCES, AGRICULTURE, & ENVIRONMENT
STANDING COMMITTEE**

Room C445, State Capitol

March 5, 2013

Members Present: Rep. Mike Noel, Chair
Rep. Doug Sagers, Vice Chair
Rep. Roger Barrus
Rep. Joel Briscoe
Rep. Mel Brown
Rep. Kay Christofferson
Rep. Jack Draxler
Rep. Susan Duckworth
Rep. Becky Edwards
Rep. Steve Handy
Rep. Ken Ivory
Rep. John Mathis
Rep. Mike McKell
Rep. Merrill Nelson
Rep. Ryan Wilcox
Rep. Larry Wiley

Staff Present: Mr. J Brian Allred, Policy Analyst
Ms. An Bradshaw, Committee Secretary

Note: A list of visitors and handouts are filed with committee minutes

Chair Noel called the meeting to order at 4:44 p.m.

MOTION: Rep. Duckworth moved to approve the minutes of March 4, 2013. The motion passed unanimously with Rep. Brown, Rep. Draxler, Rep. Mathis, Rep. Nelson, Rep. Wilcox, and Rep. Sagers absent for the vote.

Rep. Barrus assumed the chair.

H.C.R. 11 **Concurrent Resolution Supporting the Transfer of Administration of the Utah Navajo Trust Fund to the Dinéh Committee** (*Rep. M. Noel*)

MOTION: Rep. Noel moved to amend the resolution as follows:

1, Lines 11 through 14

11 This concurrent resolution of the Legislature and the Governor expresses the
12 Legislature's and the Governor's {~~intent to~~} support for the transfer
of all {~~Utah Navajo Trust Fund~~} oil and gas royalties

13 administrative and fiduciary obligations to the Utah Diné Corporation under
specified
14 conditions.

1. *Page 1, Lines 17 through 19:*

17 ▶ expresses the Legislature's and the Governor's {~~intent to transfer all~~
~~Utah Navajo~~
18 ~~Trust Fund~~} support for the transfer of all oil and gas royalties
administrative and fiduciary obligations to the Utah Diné Corporation
19 subject to federal action;

2. *Page 2, Lines 51 through 52:*

51 WHEREAS, pursuant to the Federal Acts, Utah {~~must~~} is directed to
administer the {~~UNTF~~} oil and gas royalties for the
52 health, education, and general welfare of the Navajo Indians residing in San Juan
County;

3. *Page 3, Lines 67 through 69:*

67 WHEREAS, H.B. 352 resulted in the establishment of what became known as
the
68 Navajo Royalty Holding Fund (NRHF) no later than July 1, 2008, into which all
{~~UNTF~~} oil and gas royalties
69 monetary assets and future royalty payments would be placed;

4. *Page 3, Lines 77 through 79:*

77 WHEREAS, litigation is now pending in United States District Court seeking to
force
78 the state of Utah to resume active administration of the {~~UNTF~~} oil and gas
royalties for the health, education, and
79 general welfare of the beneficiaries;

5. *Page 3, Lines 80 through 86:*

80 WHEREAS, the health, education, and general welfare of the beneficiaries
would be

81 improved by continuing projects previously funded, wholly or partially, with
82 {~~UNTF~~} oil and gas funds,
83 including housing, water development, range improvement, delivery of education,
84 healthcare,
85 and other social services;
86 {~~WHEREAS, although funded in part with NRHF expenditures, the subsequent cutoff of
87 funding has left nonmonetary assets, including partially built houses, exposed to
88 the extreme
89 elements of southeastern Utah,;~~}

6. *Page 4, Lines 90 through 93:*

90 governmental and private financial institutions, the beneficiaries would benefit from
91 the
92 expenditure of {~~UNTF~~} oil and gas royalty money for economic
93 development in San Juan County;
94 WHEREAS, the {~~UNTF~~} oil and gas royalties should be actively
95 administered in these areas of need for the
96 health, education, and general welfare of the beneficiaries;

7. *Page 4, Lines 94 through 95:*

94 WHEREAS, the Federal Acts provide no mechanism for the state of Utah to
95 resign as
96 {~~UNTF~~} trustee of the oil and gas royalties ;

8. *Page 4, Lines 110 through 113:*

110 WHEREAS, the UDC's proposed amended bylaws position the Utah Diné to
111 play
112 important roles in {~~UNTF~~} oil and gas royalties administration and
113 oversight, require that the overall value of the
114 {~~UNTF~~} oil and gas royalties' assets , currently estimated at approximately
115 \$55,000,000, be maintained and, if consistent with
116 applicable law and {~~UNTF~~} oil and gas royalties purposes, grown;

4, Line 114

114 WHEREAS, the UDC's proposed amended bylaws require that any
{~~UNTF~~} oil and gas assets made

9. Page 5, Lines 125 through 126:

125 WHEREAS, the members of each Utah chapter of the Navajo Nation have
previously

126 resolved to support the UDC's effort to become the {~~UNTF~~} trustee of the oil
and gas royalties ;

10. Page 5, Lines 127 through 130:

127 WHEREAS, this support will again be ensured by means deemed reasonable and
128 reliable prior to any transfer of {~~UNTF~~} oil and gas royalties
administration to the UDC;

129 WHEREAS, the San Juan County Board of Commissioners unanimously
supports

130 transfer of administrative and fiduciary obligations for the {~~UNTF~~} oil and
gas royalties to the UDC;

11. Page 5, Lines 134 through 139:

134 WHEREAS, the UDC intends to administer the {~~UNTF~~} oil and gas
royalties pursuant to all applicable laws

135 and regulations, including the common law of Indian trusts that imposes strict and
exacting

136 fiduciary obligations upon any trustee administering the property of Native
Americans; and

137 WHEREAS, any transfer of {~~UNTF~~} oil and gas royalties
administrative and fiduciary obligations to the UDC

138 must ensure that the state of Utah is indemnified and held harmless for any liability,
damages,

139 or litigation costs resulting from {~~UNTF~~} oil and gas royalties
administration:

5, Lines 140 through 143

140 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of
Utah, the
141 Governor concurring therein, expresses its ~~{intent to}~~ support for the
transfer all ~~{Utah Navajo Trust Fund}~~ oil and gas royalties
142 administrative and fiduciary obligations to the Utah Dinéh Corporation conditioned
on removal
143 of the state as trustee, by an act of Congress or a federal court order that can
then be used to encourage congressional action and that indemnifies and holds
harmless the state of Utah from any and all legal and equitable claims .

12. Page 5, Lines 144 through 148:

144 BE IT FURTHER RESOLVED that the Legislature and the Governor declare
that any
145 transfer of ~~{Utah Navajo Trust Fund}~~ oil and gas royalties administrative
and fiduciary obligations to the Utah Dinéh
146 Corporation by Congressional act or federal court order must also indemnify
and hold harmless the state of Utah
147 from any and all legal and equitable claims arising from future ~~{Utah Navajo~~
~~Trust Fund}~~ oil and gas royalties
148 administration by the Utah Dinéh Corporation and for litigation costs related to any
claims.

13. Page 5, Line 149 through Page 6, Line 153:

149 BE IT FURTHER RESOLVED that the Legislature and the Governor declare
that any
150 transfer of Utah Navajo Trust Fund administrative and fiduciary obligations to the
Utah Dinéh
151 Corporation should require that the value of fixed and monetary Utah Navajo Trust
Fund assets
152 remain at least at current levels so that funds will be available to promote future
generations of

153 Utah Navajo Trust Fund beneficiaries' health, education, and general welfare and
that the Utah Dineh Corporation should operate under bylaws that have the
protections described in this resolution .

14. Page 6, Lines 154 through 157:

154 BE IT FURTHER RESOLVED that the Legislature and the Governor declare
that, if
155 the foregoing objectives are ensured, the Legislature and the Governor support action
by
156 Congress or a federal court order to transfer the {~~Utah Navajo Trust~~
~~Fund's~~} oil and gas royalties administrative and fiduciary obligations to
157 the Utah Dinéh Corporation.

The motion to amend passed unanimously with Rep. Brown, Rep. Draxler, Rep. Mathis, Rep. Nelson, Rep. Sagers, and Rep. Wilcox absent for the vote.

Rep. Noel introduced the resolution to the committee with the assistance of Mr. John Pace, counsel, Utah Dinéh Corporation, and Mr. Kenneth Maryboy, San Juan County Commissioner and Navajo Nation Councilor.

Spoke in favor of the resolution:

- Mr. Mark Maryboy, Utah Dinéh Corporation
- Mr. Leonard Lee, Aneth Chapter, Navajo Nation
- Mr. Kenny Victor, Teenospos Chapter, Navajo Nation
- Ms. Mary Benally, Mexican Water Chapter, Navajo Nation
- Mr. Willie Grayeyes, Navajo Mountain Chapter, Navajo Nation
- Ms. Carol Tallis, Oljato Chapter, Navajo Nation
- Ms. Evangeline Gray, Utah Dinéh Corporation

MOTION: Rep. Sagers moved to pass the resolution out favorably as amended. The motion passed unanimously with Rep. Briscoe absent for the vote.

Rep. Noel resumed the chair.

H.B. 365 Swine Amendments (Rep. J. Mathis)

Rep. Mathis introduced the bill to the committee.

Spoke in favor of the bill: Sen. Hinkins, co-sponsor

Spoke to the bill: Mr. Sterling Brown, Utah Farm Bureau
Dr. Val Poll, Utah Veterinary Medical Association

MOTION: Rep. Wilcox moved to pass the bill out favorably as amended on March 4, 2013. The motion passed with Rep. Sagers and Rep. Wiley voting in opposition and Rep. Briscoe absent for the vote.

H.B. 166 Water Rights Amendments (Rep. K. Ivory)

Rep. Ivory moved to amend the bill as follows:

1. *Page 6, Lines 178 through 181:*

178 Section 3. ~~{Division}~~ Department of Natural Resources study of
issues related to the state's

179 jurisdiction over water rights.

180 The ~~{Division}~~ Department of Natural Resources shall:

181 (1) conduct a study of the state's jurisdiction over water rights, including:

2. *Page 7, Lines 189 through 191:*

189 Section 4. Repeal date.

190 Section 3, ~~{Division}~~ Department of Natural Resources study of
issues related to the state's

191 jurisdiction over water rights, is repealed on November 30, 2013.

The motion to amend passed unanimously with Rep. Briscoe, Rep. Mathis, Rep. Nelson, and Rep. Wiley absent for the vote.

Rep. Ivory introduced the bill to the committee with the assistance of Mr. Sterling Brown, Utah Farm Bureau.

Spoke in favor of the bill: Mr. Kent Jones, Utah State Engineer

MOTION: Rep. Christofferson moved to pass HB166 out favorably as amended. The motion passed unanimously with Rep. Barrus, Rep. Briscoe, Rep. Nelson, and Rep. Wiley absent for the vote.

H.J.R. 14 **Joint Resolution on Water Rights (*Rep. K. Ivory*)**

Rep. Ivory introduced the resolution to the committee.

MOTION: Rep. Draxler moved to pass the resolution out favorably. The motion passed unanimously with Rep. Barrus, Rep. Briscoe, Rep. Nelson, Rep. Wilcox, and Rep. Wiley absent for the vote.

MOTION: Rep. Mathis moved to adjourn the meeting. The motion passed unanimously with Rep. Barrus, Rep. Briscoe, Rep. Nelson, Rep. Wilcox, and Rep. Wiley absent for the vote.

Chair Noel adjourned the meeting at 6:51 p.m.

Rep. Mike Noel, Chair