

1 **TRANSITION FOR REPEALED NAVAJO TRUST FUND ACT**

2 **AMENDMENTS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

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

6 House Sponsor: Christine F. Watkins

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Transition for Repealed Navajo Trust Fund Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ addresses receipt of litigation related monies;
- 14 ▶ addresses expenditures on certain projects; and
- 15 ▶ modifies a date related to qualifying for receipt of money for postsecondary

16 education.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **51-9-504**, as last amended by Laws of Utah 2009, Chapter 356

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

26 Section 1. Section **51-9-504** is amended to read:

27 **51-9-504. Utah Navajo royalties and related issues.**

28 (1) (a) Notwithstanding Title 63, Chapter 88, Navajo Trust Fund, repealed July 1,
29 2008, and except as provided in Subsection (7), the following are subject to this Subsection

- 30 (1):
- 31 (i) the repealed board of trustees;
- 32 (ii) the repealed trust administrator;
- 33 (iii) an employee or agent of the repealed Navajo Trust Fund; or
- 34 (iv) the repealed Dineh Committee.
- 35 (b) The repealed board of trustees may not:
- 36 (i) beginning on March 17, 2008, take an action that imposes or may impose a liability
- 37 or obligation described in Subsection (1)(d) that is:
- 38 (A) anticipated to be completed on or after January 1, 2010; or
- 39 (B) equal to or greater than \$100,000;
- 40 (ii) on or after May 5, 2008, take an action that imposes or may impose a liability or
- 41 obligation described in Subsection (1)(d).
- 42 (c) On or after March 17, 2008 a person described in Subsections (1)(a)(ii) through
- 43 (iv) may not take an action that imposes or may impose a liability or obligation described in
- 44 Subsection (1)(d).
- 45 (d) Subsection (1)(b) applies to a liability or obligation on:
- 46 (i) the repealed Navajo Trust Fund;
- 47 (ii) the Navajo Revitalization Fund created under Title 9, Chapter 11, Navajo
- 48 Revitalization Fund Act;
- 49 (iii) the state; or
- 50 (iv) any of the following related to an entity described in this Subsection (1)(d):
- 51 (A) a department;
- 52 (B) a division;
- 53 (C) an office;
- 54 (D) a committee;
- 55 (E) a board;
- 56 (F) an officer;
- 57 (G) an employee; or

58 (H) a similar agency or individual.

59 (2) The Division of Finance shall:

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

61 (i) to hold:

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

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

64 (C) revenues from investments made by the state treasurer of the monies in the fund

65 established under this Subsection (2)(a); [~~and~~]

66 (D) monies owed to the repealed Navajo Trust Fund, including monies received by the

67 repealed trust administrator or repealed Dineh Committee from an agreement executed by:

68 (I) the repealed board of trustees;

69 (II) the repealed trust administrator; or

70 (III) the repealed Dineh Committee; and

71 (E) monies related to litigation, including settlement of litigation related to Utah

72 Navajo royalties; and

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

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

75 (B) as authorized by congressional action to designate a new recipient of the Utah

76 Navajo royalties; and

77 (b) by no later than July 1, 2008, transfer to the fund created under Subsection (2)(a)

78 in a manner consistent with this section the related assets and liabilities of the repealed Navajo

79 Trust Fund, including the transfer of monies in the repealed Navajo Trust Fund.

80 (3) The state treasurer shall invest monies in the fund created in Subsection (2)(a) in

81 accordance with Title 51, Chapter 7, State Money Management Act.

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

83 (i) adopt a list of all related assets and liabilities of the repealed trust fund that are not

84 satisfied by May 5, 2008, which may include assets and liabilities that are contingent in nature

85 or amount;

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

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

89 (A) the state auditor; and

90 (B) the Department of Administrative Services.

91 (b) The state auditor, in addition to completing its Fiscal Year 2007-2008 audit of the
92 repealed Navajo Trust Fund, shall:

93 (i) verify the list of the related assets and liabilities of the repealed Navajo Trust Fund
94 adopted by the repealed board of trustees under Subsection (4)(a) by no later than June 30,
95 2008; and

96 (ii) provide a written copy of the verification to the governor and the Legislature by no
97 later than July 30, 2008.

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

100 (6) The Department of Administrative Services, in cooperation with the Department of
101 Human Resources, may assist employees of the repealed Navajo Trust Fund as of June 30,
102 2008, in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

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

105 (a) subject to Subsection (8), fulfill the liabilities and obligations of the repealed
106 Navajo Trust Fund as of June 30, 2008;

107 (b) provide monies to an individual enrolled member of the Navajo Nation who:

108 (i) resides in San Juan County;

109 (ii) as of June 30, ~~[2010]~~ 2012, has received monies under this Subsection (7)(b) for
110 postsecondary education;

111 (iii) beginning the later of June 30 or the day on which the individual first receives
112 monies under this Subsection (7)(b), is enrolled in postsecondary education for the equivalent
113 of at least two semesters each year; and

114 (iv) meets the eligibility requirements adopted by the repealed board of trustees as of
115 March 17, 2008;

116 (c) through the Division of Facilities Construction and Management, reasonably
117 maintain the fixed assets of the repealed Navajo Trust Fund, to the extent that a lessee of a
118 fixed asset is not required by a lease to maintain a fixed asset;

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

121 (i) of the following that is owned by the repealed Navajo Trust Fund as of May 5,
122 2008:

123 (A) the government service building; or

124 (B) another fixed asset of the repealed Navajo Trust Fund, if the sale of the fixed asset
125 is consistent with the obligations of the state with regard to the Utah Navajo royalties; and

126 (ii) (A) in an arms length manner; and

127 (B) so that fair market compensation is paid to the repealed Navajo Trust Fund; and

128 (e) charge the fund established under Subsection (2)(a) for the expenses that are
129 necessary and reasonable to comply with the requirements of this Subsection (7).

130 (8) To fulfill the liabilities and obligations of the repealed Navajo Trust Fund as of
131 June 30, 2008, the Division of Finance may expend monies from the fund:

132 (a) for a liability or obligation incurred before March 17, 2008, to the extent that the
133 expenditure was expressly a liability or obligation of the repealed Navajo Trust Fund as of
134 March 17, 2008; and

135 (b) on and after March 11, 2010, for a project approved under Subsection (1)(b)(i) by
136 the repealed board of trustees, except that the Division of Finance may not expend monies
137 from the fund for a project approved under Subsection (1)(b)(i):

138 (i) in excess of \$100,000 in the aggregate for the project; or

139 (ii) to fulfill a liability or obligation related to the project if the expenditure would be
140 on or after the earlier of:

141 (A) the day on which monies from the fund are transferred as authorized by

142 congressional action to designate a new recipient of the Utah Navajo royalties; or

143 (B) January 1, 2012.

144 [~~8~~] (9) Unless expressly prohibited by this part, the state may take any action with
145 regard to the assets held by the state under this part that is consistent with the obligations of
146 the state related to the Utah Navajo royalties.