

# H.C.R. 11

## CONCURRENT RESOLUTION SUPPORTING THE TRANSFER OF ADMINISTRATION OF THE UTAH NAVAJO TRUST FUND TO THE DINÉH COMMITTEE

HOUSE COMMITTEE AMENDMENTS

AMENDMENT 2

MARCH 5, 2013 4:02 PM

Representative **Michael E. Noel** proposes the following amendments:

1. *Page 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 Dinéh Corporation under specified  
14 conditions.

2. *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 Dinéh Corporation  
19 subject to federal action;

3. *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;

4. *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;

5. *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;

6. *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 ~~{-UNTF-}~~ oil and gas  
funds,  
82 including housing, water development, range improvement, delivery of education, healthcare,  
83 and other social services;  
84 ~~{-WHEREAS, although funded in part with NRHF expenditures, the subsequent cutoff of~~  
85 ~~funding has left nonmonetary assets, including partially built houses, exposed to the extreme~~  
86 ~~elements of southeastern Utah;-}~~

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

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

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

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

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

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

10. *Page 4, Line 114:*

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

11. *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 ;

12. 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;

13. 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:

14. Page 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 .

15. 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.

16. 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 Diné  
Corporation should operate under bylaws that have the protections described in this resolution .

17. 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 Diné Corporation.