

1                   **TRANSITION FOR REPEALED NAVAJO TRUST FUND ACT**

2   2014 GENERAL SESSION

3   STATE OF UTAH

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

5                                   House Sponsor: Michael E. Noel

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7 **LONG TITLE**

8 **General Description:**

9                   This bill modifies the Transition for Repealed Navajo Trust Fund Act to extend certain  
10 dates.

11 **Highlighted Provisions:**

12                   This bill:

- 13                   ▶ extends certain dates related to when money may be expended.

14 **Money Appropriated in this Bill:**

15                   None

16 **Other Special Clauses:**

17                   This bill provides for retrospective operation.

18 **Utah Code Sections Affected:**

19 AMENDS:

20                   **51-9-504**, as last amended by Laws of Utah 2013, Chapter 11

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

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

24                   **51-9-504. Utah Navajo royalties and related issues.**

25                   (1) (a) Notwithstanding Title 63, Chapter 88, Navajo Trust Fund, repealed July 1,  
26 2008, and except as provided in Subsection (7), the following are subject to this Subsection (1):

- 27                   (i) the repealed board of trustees;



- 28 (ii) the repealed trust administrator;
- 29 (iii) an employee or agent of the repealed Navajo Trust Fund; or
- 30 (iv) the repealed Dineh Committee.
- 31 (b) The repealed board of trustees may not:
- 32 (i) beginning on March 17, 2008, take an action that imposes or may impose a liability
- 33 or obligation described in Subsection (1)(d) that is:
  - 34 (A) anticipated to be completed on or after January 1, 2010; or
  - 35 (B) equal to or greater than \$100,000; or
- 36 (ii) on or after May 5, 2008, take an action that imposes or may impose a liability or
- 37 obligation described in Subsection (1)(d).
- 38 (c) On or after March 17, 2008, a person described in Subsections (1)(a)(ii) through
- 39 (iv) may not take an action that imposes or may impose a liability or obligation described in
- 40 Subsection (1)(d).
- 41 (d) Subsection (1)(b) applies to a liability or obligation on:
  - 42 (i) the repealed Navajo Trust Fund;
  - 43 (ii) the Navajo Revitalization Fund created under Title 35A, Chapter 8, Part 17, Navajo
  - 44 Revitalization Fund Act;
  - 45 (iii) the state; or
  - 46 (iv) any of the following related to an entity described in this Subsection (1)(d):
    - 47 (A) a department;
    - 48 (B) a division;
    - 49 (C) an office;
    - 50 (D) a committee;
    - 51 (E) a board;
    - 52 (F) an officer;
    - 53 (G) an employee; or
    - 54 (H) a similar agency or individual.
- 55 (2) The Division of Finance shall:
  - 56 (a) establish a fund by no later than July 1, 2008:
    - 57 (i) to hold:
      - 58 (A) the money in the repealed Navajo Trust Fund as of June 30, 2008;

- 59 (B) Utah Navajo royalties received by the state on or after July 1, 2008;
- 60 (C) revenues from investments made by the state treasurer of the money in the fund
- 61 established under this Subsection (2)(a);
- 62 (D) money owed to the repealed Navajo Trust Fund, including money received by the
- 63 repealed trust administrator or repealed Dineh Committee from an agreement executed by:
  - 64 (I) the repealed board of trustees;
  - 65 (II) the repealed trust administrator; or
  - 66 (III) the repealed Dineh Committee; and
- 67 (E) money related to litigation, including settlement of litigation related to Utah Navajo
- 68 royalties; and
  - 69 (ii) from which money may not be transferred or expended, except:
    - 70 (A) as provided in Subsection (7); or
    - 71 (B) as authorized by congressional action to designate a new recipient of the Utah
    - 72 Navajo royalties; and
      - 73 (b) by no later than July 1, 2008, transfer to the fund created under Subsection (2)(a) in
      - 74 a manner consistent with this section the related assets and liabilities of the repealed Navajo
      - 75 Trust Fund, including the transfer of money in the repealed Navajo Trust Fund.
  - 76 (3) The state treasurer shall invest money in the fund created in Subsection (2)(a) in
  - 77 accordance with Title 51, Chapter 7, State Money Management Act.
  - 78 (4) (a) By no later than May 5, 2008, the repealed board of trustees shall:
    - 79 (i) adopt a list of all related assets and liabilities of the repealed trust fund that are not
    - 80 satisfied by May 5, 2008, which may include assets and liabilities that are contingent in nature
    - 81 or amount;
    - 82 (ii) adopt a list of all individuals who at the time of adoption meet the requirements of
    - 83 Subsection (7)(b); and
    - 84 (iii) provide a copy of the lists described in Subsections (4)(a)(i) and (ii) to:
      - 85 (A) the state auditor; and
      - 86 (B) the Department of Administrative Services.
    - 87 (b) The state auditor, in addition to completing its Fiscal Year 2007-2008 audit of the
    - 88 repealed Navajo Trust Fund, shall:
      - 89 (i) verify the list of the related assets and liabilities of the repealed Navajo Trust Fund

90 adopted by the repealed board of trustees under Subsection (4)(a) by no later than June 30,  
91 2008; and

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

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

96 (6) The Department of Administrative Services, in cooperation with the Department of  
97 Human Resources, may assist employees of the repealed Navajo Trust Fund as of June 30,  
98 2008, in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

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

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

103 (b) provide financial assistance to an individual enrolled member of the Navajo Nation  
104 who:

105 (i) resides in San Juan County;

106 (ii) as of June 30, [~~2014~~] 2018, has received financial assistance under this Subsection  
107 (7)(b) for postsecondary education;

108 (iii) beginning the later of June 30 or the day on which the individual first receives  
109 financial assistance under this Subsection (7)(b), is enrolled in postsecondary education in any  
110 state for the equivalent of at least two semesters each year; and

111 (iv) meets the eligibility requirements adopted by the repealed board of trustees as of  
112 March 17, 2008, except that the Department of Administrative Services may increase the  
113 amount of financial assistance received by an individual under this Subsection (7)(b) when  
114 there are increases in tuition or fees charged at postsecondary institutions operating in the state;

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

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

120 (i) of the following that is owned by the repealed Navajo Trust Fund as of May 5,

121 2008:

122 (A) the government service building; or

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

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

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

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

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

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

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

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

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

140 (A) the day on which money from the fund is transferred as authorized by  
141 congressional action to designate a new recipient of the Utah Navajo royalties; or

142 (B) January 1, [~~2014~~] 2018.

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

146 Section 2. **Retrospective operation.**

147 This bill has retrospective operation to January 1, 2014.

**Legislative Review Note**  
**as of 1-30-14 5:25 PM**

**Office of Legislative Research and General Counsel**