

NAVAJO WATER RIGHTS NEGOTIATION

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David P. Hinkins

House Sponsor: Phil Lyman

LONG TITLE

General Description:

This bill addresses the process to finalize negotiations of Navajo water rights.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ modifies the conditions to be met before money may be transferred from the fund;
- and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- ▶ to the General Fund Restricted -- Navajo Water Rights Negotiation Account, as a one-time appropriation:
 - from the General Fund Budget Reserve Account, \$6,000,000.
- ▶ to the Department of Natural Resources -- Division of Water Rights, as a one-time appropriation:
 - from the General Fund Restricted -- Navajo Water Rights Negotiation Account, \$8,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 **51-9-702**, as enacted by Laws of Utah 2012, Chapter 276

30 **63J-1-602.2**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

31

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

33 Section 1. Section **51-9-702** is amended to read:

34 **51-9-702. Navajo Water Rights Negotiation Account -- Settlement.**

35 (1) As used in this section:

36 (a) "Conformed agreement" means an agreement required by congressional action and
37 that the parties to the settlement agreement have agreed to enter into to complete the settlement
38 process.

39 (b) "Congressional action" means the United States Congress's approval of the
40 settlement agreement with passage of H. R. 133, Consolidated Appropriations Act, 2021,
41 Section 1102, the Navajo-Utah Water Rights Settlement.

42 (c) "Settlement agreement" means the document titled "Navajo Utah Water Rights
43 Settlement Agreement" dated December 14, 2015, and the exhibits attached to the document.

44 [(H)] (2) (a) There is created a restricted account within the General Fund known as the
45 "Navajo Water Rights Negotiation Account."

46 (b) The restricted account shall consist of appropriations made by the Legislature.

47 (c) The Division of Finance shall:

48 (i) administer the account; and

49 (ii) deposit interest earned on the account into the General Fund.

50 [(2)] (3) Subject to Subsection [(3)] (4), the Legislature may appropriate money from
51 the restricted account only to plan, design, and construct drinking water projects to serve
52 populations located on the Navajo Nation reservation within the boundaries of Utah.

53 [(3) Before appropriating money from the account for the purpose specified in
54 Subsection (2), the Legislature shall ensure that the state of Utah has:]

55 [(a) a signed, enforceable agreement on Navajo water rights with the Navajo Nation
56 and the United States government; and]

57 [(b) a signed, enforceable project repayment agreement with the United States
58 Department of the Interior.]

59 (4) Before transferring money appropriated from the account under the settlement
 60 agreement and congressional action for the purposes described in Subsection (3):

61 (a) the state engineer, appointed under Section 73-2-1, shall:

62 (i) determine whether the conformed agreement is consistent with the settlement
 63 agreement in all material respects;

64 (ii) if the conformed agreement is consistent with the settlement agreement in all
 65 material respects, recommend that the governor sign the conformed agreement; and

66 (iii) submit the state engineer's findings and recommendation under this Subsection

67 (4)(a) in writing to the governor and the Legislative Management Committee;

68 (b) the governor shall sign the conformed agreement; and

69 (c) all parties have signed the conformed agreement.

70 [~~4~~] (5) Creation of the account and appropriations into the account do not:

71 (a) create a state obligation to provide funding for the planning, design, or construction
 72 of drinking water projects to serve populations located on the Navajo Nation reservation within
 73 the boundaries of the state; and

74 (b) constitute an acknowledgment or admission by the state [~~of Utah~~] of any legal
 75 liability or obligation.

76 Section 2. Section **63J-1-602.2** is amended to read:

77 **63J-1-602.2. List of nonlapsing appropriations to programs.**

78 Appropriations made to the following programs are nonlapsing:

79 (1) The Legislature and the Legislature's committees.

80 (2) The State Board of Education, including all appropriations to agencies, line items,
 81 and programs under the jurisdiction of the State Board of Education, in accordance with
 82 Section **53F-9-103**.

83 (3) The Percent-for-Art Program created in Section **9-6-404**.

84 (4) The LeRay McAllister Critical Land Conservation Program created in Section
 85 **11-38-301**.

86 (5) Dedicated credits accrued to the Utah Marriage Commission as provided under
 87 Subsection **17-16-21(2)(d)(ii)**.

88 (6) The Trip Reduction Program created in Section **19-2a-104**.

89 (7) The Division of Wildlife Resources for the appraisal and purchase of lands under

- 90 the Pelican Management Act, as provided in Section [23-21a-6](#).
- 91 (8) The emergency medical services grant program in Section [26-8a-207](#).
- 92 (9) The primary care grant program created in Section [26-10b-102](#).
- 93 (10) Sanctions collected as dedicated credits from Medicaid provider under Subsection
- 94 [26-18-3\(7\)](#).
- 95 (11) The Utah Health Care Workforce Financial Assistance Program created in Section
- 96 [26-46-102](#).
- 97 (12) The Rural Physician Loan Repayment Program created in Section [26-46a-103](#).
- 98 (13) The Opiate Overdose Outreach Pilot Program created in Section [26-55-107](#).
- 99 (14) Funds that the Department of Alcoholic Beverage Control retains in accordance
- 100 with Subsection [32B-2-301\(8\)\(a\)](#) or (b).
- 101 (15) The General Assistance program administered by the Department of Workforce
- 102 Services, as provided in Section [35A-3-401](#).
- 103 (16) A new program or agency that is designated as nonlapsing under Section
- 104 [36-24-101](#).
- 105 (17) The Utah National Guard, created in Title 39, Militia and Armories.
- 106 (18) The State Tax Commission under Section [41-1a-1201](#) for the:
- 107 (a) purchase and distribution of license plates and decals; and
- 108 (b) administration and enforcement of motor vehicle registration requirements.
- 109 (19) The Search and Rescue Financial Assistance Program, as provided in Section
- 110 [53-2a-1102](#).
- 111 (20) The Motorcycle Rider Education Program, as provided in Section [53-3-905](#).
- 112 (21) The Utah Board of Higher Education for teacher preparation programs, as
- 113 provided in Section [53B-6-104](#).
- 114 (22) The Medical Education Program administered by the Medical Education Council,
- 115 as provided in Section [53B-24-202](#).
- 116 (23) The Division of Services for People with Disabilities, as provided in Section
- 117 [62A-5-102](#).
- 118 (24) The Division of Fleet Operations for the purpose of upgrading underground
- 119 storage tanks under Section [63A-9-401](#).
- 120 (25) The Utah Seismic Safety Commission, as provided in Section [63C-6-104](#).

- 121 (26) Appropriations to the Department of Technology Services for technology
122 innovation as provided under Section [63F-4-202](#).
- 123 (27) The Office of Administrative Rules for publishing, as provided in Section
124 [63G-3-402](#).
- 125 (28) The Governor's Office of Economic Development to fund the Enterprise Zone
126 Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- 127 (29) Appropriations to fund the Governor's Office of Economic Development's Rural
128 Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural
129 Employment Expansion Program.
- 130 (30) Appropriations to fund programs for the Jordan River Recreation Area as
131 described in Section [65A-2-8](#).
- 132 (31) The Department of Human Resource Management user training program, as
133 provided in Section [67-19-6](#).
- 134 (32) A public safety answering point's emergency telecommunications service fund, as
135 provided in Section [69-2-301](#).
- 136 (33) The Traffic Noise Abatement Program created in Section [72-6-112](#).
- 137 (34) The money appropriated from the Navajo Water Rights Negotiation Account to
138 the Division of Water Rights, created in Section [73-2-1.1](#), for purposes of participating in a
139 settlement of federal reserved water right claims.
- 140 [~~34~~] (35) The Judicial Council for compensation for special prosecutors, as provided
141 in Section [77-10a-19](#).
- 142 [~~35~~] (36) A state rehabilitative employment program, as provided in Section
143 [78A-6-210](#).
- 144 [~~36~~] (37) The Utah Geological Survey, as provided in Section [79-3-401](#).
- 145 [~~37~~] (38) The Bonneville Shoreline Trail Program created under Section [79-5-503](#).
- 146 [~~38~~] (39) Adoption document access as provided in Sections [78B-6-141](#), [78B-6-144](#),
147 and [78B-6-144.5](#).
- 148 [~~39~~] (40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent
149 Defense Commission.
- 150 [~~40~~] (41) The program established by the Division of Facilities Construction and
151 Management under Section [63A-5b-703](#) under which state agencies receive an appropriation

152 and pay lease payments for the use and occupancy of buildings owned by the Division of
153 Facilities Construction and Management.

154 Section 3. **Appropriation.**

155 The following sums of money are appropriated for the fiscal year beginning July 1,
156 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for
157 fiscal year 2022.

158 Subsection (3)(a). **Restricted Fund and Account Transfers.**

159 The Legislature authorizes the State Division of Finance to transfer the following
160 amounts between the following funds or accounts indicated. Expenditures and outlays from the
161 funds to which the money is transferred must be authorized by an appropriation.

162 ITEM 1

163	<u>To General Fund Restricted -- Navajo Water Rights Negotiation Account</u>	
164	<u>From General Fund Budget Reserve Account, One-time</u>	<u>\$6,000,000</u>
165	<u>Schedule of Programs:</u>	
166	<u>Navajo Water Rights Negotiation Account</u>	<u>\$6,000,000</u>

167 Subsection (3)(b). **Operating and Capital Budgets.**

168 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
169 Legislature appropriates the following sums of money from the funds or accounts indicated for
170 the use and support of the government of the state of Utah.

171 ITEM 2

172	<u>To Department of Natural Resources -- Water Rights</u>	
173	<u>From General Fund Restricted -- Navajo Water Rights</u>	
174	<u>Negotiation Account, One-time</u>	<u>\$8,000,000</u>
175	<u>Schedule of Programs:</u>	
176	<u>Adjudication</u>	<u>\$8,000,000</u>