

**JOINT RESOLUTION ON SETTLEMENT OF FEDERAL
RESERVED WATER RIGHT CLAIMS**

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David P. Hinkins

House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This joint resolution ratifies a settlement of certain federal reserved water right claims and approves the financial settlement subject to specified conditions.

Highlighted Provisions:

This resolution:

- ▶ outlines the development of the settlement of federal reserved water right claims with the Navajo Nation and the United States;
- ▶ specifies the steps that need to be taken for the state to ratify the settlement of the claims;
- ▶ addresses approvals required by statute; and
- ▶ ratifies the settlement conditioned on the specified events occurring.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Governor of Utah and the President of the Navajo Nation, by a memorandum of understanding dated August 13, 2003, agreed to jointly explore settlement of federal reserved water right claims for the portion of the Navajo Nation located in southeastern Utah;



28 WHEREAS, over a period of years, representatives of Utah and the Navajo Nation
29 worked in good faith to negotiate a proposed water claim settlement;

30 WHEREAS, those efforts produced a fair, equitable, and final settlement embodied in a
31 document entitled "Navajo Utah Water Rights Settlement Agreement" dated December 14,
32 2015;

33 WHEREAS, the United States Congress approved that agreement with passage of H.R.
34 133, the "Consolidated Appropriations Act, 2021," which contains, in Section 1102, the
35 Navajo-Utah Water Rights Settlement, and which was signed by President Trump;

36 WHEREAS, the approved agreement provides some \$200 million in funding for
37 drinking water projects that will improve water supply and delivery to portions of the Navajo
38 Nation located within Utah, of which Utah must provide \$8 million;

39 WHEREAS, the state of Utah desires to complete all necessary conditions precedent
40 contained in the 2015 Settlement Agreement and Section 1102 of the Consolidated
41 Appropriations Act, 2021, as expeditiously as possible both to improve water delivery
42 conditions for Utah citizens who live on the Navajo Nation and to avoid the implications of the
43 expiration date that the Consolidated Appropriations Act contains;

44 WHEREAS, the Legislature has placed \$2 million in Utah's Navajo Water Rights
45 Negotiation Account and these funds that have been committed to the settlement are being held
46 in anticipation of the settlement being finalized;

47 WHEREAS, the proposed settlement provides the Navajo Nation with 81,500 acre-feet
48 of water annually, an appropriate and reasonable portion of Utah's Colorado River allocation,
49 and contains provisions to minimize the settlement's impact on Utah water rights, particularly
50 municipal rights;

51 WHEREAS, in exchange for providing most of the funds for construction of the
52 drinking water projects that the agreement contemplates, the United States receives a valuable
53 waiver of claims and other considerations; and

54 WHEREAS, to finalize the settlement, the 2021 Consolidated Appropriations Act
55 requires the state of Utah to:

56 (1) add money to the amount in the Utah's Navajo Water Rights Negotiation Account
57 so that a total of \$8 million may be transferred into the Navajo Water Development Projects
58 Account of the Navajo Utah Settlement Trust Fund established by the Secretary of the Interior;

59 (2) ratify the 2015 Navajo Utah Water Rights Settlement Agreement and have the
60 Governor sign the forthcoming conformed agreement contemplated by Section 1102 of the
61 Consolidated Appropriations Act, once the state determines in accordance with statute that the
62 conformed agreement is consistent with the 2015 Agreement in all material respects; and

63 (3) present the settlement to the Seventh District Court general adjudication proceeding
64 and seek and obtain an interlocutory decree confirming the Navajo water rights consistent with
65 the 2015 Agreement and the 2021 Consolidated Appropriations Act;

66 WHEREAS, the Governor has given approval of the proposed financial settlement
67 agreement as required by Section 63G-10-201;

68 WHEREAS, pursuant to Utah Code Section 63G-10-202, after the Governor's approval
69 of a financial settlement, a financial settlement that will cost government entities more than
70 \$1,000,000 to implement requires the Utah Legislature's approval before execution; and

71 WHEREAS, the Legislature grants approval of the financial settlement by means of this
72 resolution after the state takes the steps required by this resolution:

73 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah
74 ratifies the Navajo Utah Water Rights Settlement Agreement with the intent to:

75 (1) have the Governor sign the forthcoming conformed agreement contemplated by
76 Section 1102 of the Consolidated Appropriations Act, when, according to statute, the state
77 engineer determines that the conformed agreement is consistent with the 2015 Agreement in all
78 material respects;

79 (2) obtain an interlocutory decree in the Seventh District Court general adjudication
80 proceeding confirming the Navajo water rights consistent with the 2015 Agreement and the
81 2021 Consolidated Appropriations Act; and

82 (3) provide \$8,000,000 to be transferred to the Navajo Water Development Projects
83 Account.

84 BE IT FURTHER RESOLVED, that the Utah Legislature approves the proposed
85 settlement agreement for purposes of Utah Code Section 63G-10-202 once the conditions
86 specified in this resolution are met.

87 BE IT FURTHER RESOLVED, that a copy of this resolution be provided to Utah's
88 congressional delegation and to the Navajo Nation.