



## NOTIFICATION TO WITHDRAW SPONSORSHIP

Legislative Reporting Supervisor  
Reporting Section/OLS

I, Davis Filfred, Sponsor of proposed resolution hereby withdraw my sponsorship of the proposed resolution, tracking no. 0026-15. I understand that if there are co-sponsors to the resolution, they may continue as sponsor of the proposed resolution.

[Signature] Signature  
JAN 27, 2015 Date

**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0026-15

**DATE:** January 26, 2015

**TITLE OF RESOLUTION:** PROPOSED NAVAJO NATION COUNCIL RESOLUTION;  
AN ACTION RELATING TO AN EMERGENCY; SUPPORTING THE UTAH STATE  
LEGISLATURE'S SENATE BILL 90 MODIFYING PROVISIONS RELATED TO  
PUBLIC FUNDS TO PROVIDE FOR THE NAVAJO TRUST FUND TO REPLACE THE  
UTAH NAVAJO ROYALTIES HOLDING FUND

**PURPOSE:** This resolution, if approved, will support Utah State Legislature's Senate Bill 90 amending provisions related to public funds and accounts to provide for a Navajo Trust Fund to replace the Utah Navajo Royalties Holding Fund.

**This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.**

PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
23rd NAVAJO NATION COUNCIL—First Year, 2015

INTRODUCED BY



Primary Sponsor

TRACKING NO. 0026-15

AN ACTION  
RELATING TO AN EMERGENCY; SUPPORTING THE UTAH STATE LEGISLATURE’S  
SENATE BILL 90 MODIFYING PROVISIONS RELATED TO PUBLIC FUNDS TO  
PROVIDE FOR THE NAVAJO TRUST FUND TO REPLACE THE UTAH NAVAJO  
ROYALTIES HOLDING FUND

WHEREAS:

- A. Section 164(16) of Title 2 provides, in part, that legislation can be considered as an emergency if such proposed legislation concerns potential threats to "the sovereignty of the Navajo Nation" or a pressing public need exists requiring immediate action by the Navajo Nation Council.
- B. There is a pressing public need to show the Navajo Nation’s support for this resolution before it goes before the Utah Senate in order to promote the creation of the Navajo Trust Fund, which provides expenditures from the fund for the health, education, and general welfare of the Navajo Indians residing in San Juan County, and additionally creates the Dineh Committee, which will be comprised of members of registered agents from Navajo Nation Chapters.
- C. Statements of policy must be reviewed and approved by resolution by the appropriate standing committee(s) and the Navajo Nation Council. 2 N.N.C. § 164 (A). Statements of policy are written statements submitted to federal, state or local governments by a Navajo

1 Nation official stating the official position of the Navajo Nation on proposed legislation  
2 or other action by that government. 2 N.N.C. § 110(W).

3 D. The Navajo Nation has a government-to-government relationship with the State of Utah.

4 E. Utah Senate Bill 90 seeks to enhance the government-to government relationship  
5 between Indian nations and the state agencies.

6 F. Utah State Senator Kevin T. Van Tassell submitted Senate Bill 90 in the 2015 General  
7 Session and it is currently waiting for introduction as of January 23, 2015. *See* Senate Bill  
8 90 attached as Exhibit A.

9 G. Utah Senate Bill 90 seeks to replace the Utah Navajo Royalties Holding Fund with the  
10 Navajo Trust Fund, provide for a board of trustees for the Fund, and to create the Dineh  
11 Committee, which is comprised of registered agents from various Navajo Nation  
12 Chapters.  
13

14  
15 NOW THEREFORE, BE IT RESOLVED:

- 16 1. The Navajo Nation supports the Utah State Legislature's Senate Bill 90 replacing the  
17 Utah Navajo Royalties Holding Fund with the Navajo Trust Fund.  
18 2. The Navajo Nation hereby authorizes the Navajo Nation President, the Navajo Nation  
19 Speaker, and their designees, to advocate on their behalf.  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30



**UTAH NAVAJO ROYALTIES AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kevin T. Van Tassell**

House Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill modifies provisions related to public funds and accounts to provide for a Navajo Trust Fund to replace the Utah Navajo Royalties Holding Fund.

**Highlighted Provisions:**

This bill:

- defines terms;
- creates the Navajo Trust Fund;
- outlines the duties of the Division of Finance, state treasurer, and state auditor with regard to the fund;
- provides for the board of trustees of the fund;
- outlines powers and duties of the board of trustees;
- provides for the appointment of a trust administrator and, if necessary, the creation of the Office of Trust Administrator;
- outlines powers and duties of the trust administrator;
- requires the attorney general to act as legal counsel to the board;
- provides for consultation with state personnel;
- addresses expenditures from the fund;
- creates the Dineh Committee and provides for its duties;
- repeals provisions related to the Utah Navajo Royalties Holding Fund; and
- makes technical changes.

S.B. 90



**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

## ENACTS:

**51-10-101**, Utah Code Annotated 1953**51-10-102**, Utah Code Annotated 1953**51-10-201**, Utah Code Annotated 1953**51-10-202**, Utah Code Annotated 1953**51-10-203**, Utah Code Annotated 1953**51-10-204**, Utah Code Annotated 1953**51-10-205**, Utah Code Annotated 1953**51-10-206**, Utah Code Annotated 1953

## REPEALS:

**51-9-501**, as enacted by Laws of Utah 2008, Chapter 202**51-9-502**, as enacted by Laws of Utah 2008, Chapter 202**51-9-503**, as enacted by Laws of Utah 2008, Chapter 202**51-9-504**, as last amended by Laws of Utah 2014, Chapter 71

---

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **51-10-101** is enacted to read:**CHAPTER 10. NAVAJO TRUST FUND ACT****Part 1. General Provisions****51-10-101. Title.**This chapter is known as the "Navajo Trust Fund Act."Section 2. Section **51-10-102** is enacted to read:**51-10-102. Definitions.**As used in this chapter:(1) "Administrative expenditure" means:(a) an expenditure for professional services;

- 59 (b) per diem and travel expenses for the board and the Dineh Committee; and  
60 (c) expense reimbursements, salaries, and benefits for the trust administrator and the  
61 trust administrator's staff.
- 62 (2) "Blue Mountain Dine" means the off-reservation Navajo community organization  
63 known as the Blue Mountain Dine'.
- 64 (3) "Board" means the board of trustees created in Section 51-10-202.
- 65 (4) "Business enterprise" means a sole proprietorship, partnership, corporation, limited  
66 liability company, or other private entity organized to provide goods or services for a profit.
- 67 (5) "Dineh Committee" means the committee created in Section 51-10-206.
- 68 (6) "Fund" means the Navajo Trust Fund created in Section 51-10-201.
- 69 (7) "Income" means the revenues from investments made by the state treasurer of the  
70 fund principal.
- 71 (8) "Navajos" means San Juan County, Utah, Navajos.
- 72 (9) "Office of Trust Administrator" means the office created in Section 51-10-203.
- 73 (10) "Principal" means:  
74 (a) the balance of the fund as of May 12, 2015; and  
75 (b) the revenue to the fund from whatever source except income.
- 76 (11) "Service provider" means any of the following that provides a good or service to  
77 Navajos:  
78 (a) a business enterprise;  
79 (b) a private nonprofit organization; or  
80 (c) a government entity.
- 81 (12) "Trust administrator" means the professional trust administrator appointed as  
82 provided in Subsection 51-10-202(2).
- 83 (13) "Utah Navajo Chapter" means the following chapters of the Navajo Nation:  
84 (a) Aneth Chapter;  
85 (b) Mexican Water Chapter;  
86 (c) Navajo Mountain Chapter;  
87 (d) Oljato Chapter;  
88 (e) Dennehotso Chapter;  
89 (f) Red Mesa Chapter; and



90 (g) Teec Nos Pos Chapter.

91 Section 3. Section **51-10-201** is enacted to read:

92 **Part 2. Administration of Navajo Trust Fund**

93 **51-10-201. Fund created.**

94 (1) There is created a private-purpose trust fund entitled the "Navajo Trust Fund."

95 (2) The fund consists of:

96 (a) revenue received by the state that represents the 37-1/2% of the net oil royalties  
97 from the Aneth Extension of the Navajo Indian Reservation required by Pub. L. No. 72-403, 47  
98 Stat. 141, to be paid to the state;

99 (b) money received by the trust administrator from a contract executed by:

100 (i) the trust administrator; or

101 (ii) the board;

102 (c) appropriations made to the fund by the Legislature, if any;

103 (d) income;

104 (e) money related to litigation, including settlement of litigation, related to the royalties  
105 described in Subsection (2)(a);

106 (f) the balance of the Utah Navajo Royalties Holding Fund as of May 12, 2015, which  
107 shall be transferred to the fund; and

108 (g) other revenue received from other sources.

109 (3) The trust administrator shall account for the receipt and expenditures of fund  
110 money in accordance with Subsection 51-10-204(1)(m) and the policies and guidance of the  
111 Division of Finance.

112 (4) (a) (i) The state treasurer shall invest the fund money with the primary goal of  
113 providing for the stability, income, and growth of the principal.

114 (ii) Nothing in this section requires a specific outcome in investing.

115 (iii) The state treasurer may deduct any administrative costs incurred in managing fund  
116 assets from earnings before distributing them.

117 (iv) (A) The state treasurer may employ professional asset managers to assist in the  
118 investment of assets of the fund.

119 (B) The treasurer may only provide compensation to asset managers from earnings  
120 generated by the fund's investments.



121 (v) The state treasurer shall invest and manage the fund assets as a prudent investor  
122 would, by:

123 (A) considering the purposes, terms, distribution requirements, and other  
124 circumstances of the fund; and

125 (B) exercising reasonable care, skill, and caution in order to meet the standard of care  
126 of a prudent investor.

127 (vi) In determining whether or not the state treasurer has met the standard of care of a  
128 prudent investor, the judge or finder of fact shall:

129 (A) consider the state treasurer's actions in light of the facts and circumstances existing  
130 at the time of the investment decision or action, and not by hindsight; and

131 (B) evaluate the state treasurer's investment and management decisions respecting  
132 individual assets not in isolation, but in the context of a fund portfolio as a whole as a part of  
133 an overall investment strategy that has risk and return objectives reasonably suited to the fund.

134 (b) (i) The fund shall earn interest.

135 (ii) The state treasurer shall deposit the interest or other revenue earned from  
136 investment of the fund into the fund.

137 (5) The state auditor shall:

138 (a) conduct an annual audit of the fund's finances, internal controls, and compliance  
139 with statutes, rules, and policies in accordance with Title 67, Chapter 3, Auditor; and

140 (b) deliver a copy of the annual audit report to the:

141 (i) board;

142 (ii) trust administrator;

143 (iii) Dineh Committee;

144 (iv) Office of Legislative Research and General Counsel for presentation to the Native  
145 American Legislative Liaison Committee, created in Section [36-22-1](#);

146 (v) governor's office;

147 (vi) Division of Indian Affairs;

148 (vii) Navajo Nation;

149 (viii) United States Bureau of Indian Affairs; and

150 (ix) United States Secretary of the Interior.

151 Section 4. Section **51-10-202** is enacted to read:

**51-10-202. Board of trustees of the fund -- Trust administrator.**

(1) (a) There is created a board of trustees of the fund composed of the following three members:

(i) the state treasurer;

(ii) the director of the Division of Finance; and

(iii) the director of the Governor's Office of Management and Budget or the director's designee.

(b) The state treasurer is chair of the board.

(c) Three members of the board is a quorum.

(d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section [63A-3-106](#);

(ii) Section [63A-3-107](#); and

(iii) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and [63A-3-107](#).

(2) (a) The board shall:

(i) contract with a person to act as trust administrator in accordance with Title 63G, Chapter 6a, Utah Procurement Code, and when not provided for by this chapter, define the trust administrator's duties; or

(ii) if unable to find a qualified person under Subsection (2)(a)(i) to act as trust administrator for a reasonable cost, hire a qualified person to act as trust administrator and, when not provided for in this chapter, define the trust administrator's duties.

(b) If the board hires a trust administrator under Subsection (2)(a)(ii), the board may hire or authorize the trust administrator to hire other persons necessary to assist the trust administrator and the board to perform the duties required by this chapter.

(3) The board shall:

(a) on behalf of the state, act as trustee of the fund and exercise the state's fiduciary responsibilities;

(b) meet at least once every other month;

(c) review and approve the policies, projections, rules, criteria, procedures, forms, standards, and performance goals established by the trust administrator;

183 (d) review and approve the fund budget prepared by the trust administrator;  
184 (e) review the progress reports from programs financed by the fund;  
185 (f) review financial records of the fund, including fund receipts, expenditures, and  
186 investments; and  
187 (g) do any other thing necessary to perform the state's fiduciary obligations under the  
188 fund.  
189 (4) The attorney general shall:  
190 (a) act as legal counsel and provide legal representation to the board; and  
191 (b) attend or direct an attorney from the attorney general's office to attend each meeting  
192 of the board.  
193 (5) The board may consult with knowledgeable state personnel to advise the board on  
194 policy and technical matters.  
195 Section 5. Section **51-10-203** is enacted to read:  
196 **51-10-203. Office of Trust Administrator.**  
197 (1) If the board hires a trust administrator under Subsection 51-10-202(2)(a)(ii), there  
198 is created an Office of Trust Administrator.  
199 (2) The trust administrator shall administer the office.  
200 Section 6. Section **51-10-204** is enacted to read:  
201 **51-10-204. Trust administrator duties.**  
202 (1) Under the direction of the board, the trust administrator shall:  
203 (a) review the documents and decisions highlighting the history of the fund, including:  
204 (i) the Nelson report, prepared as part of the Bigman v. Utah Navajo Development  
205 Council, Inc. C77-0031;  
206 (ii) the November 1991 performance audit of the fund by the legislative auditor  
207 general;  
208 (iii) Sakezzie v. Utah Indian Affairs Commission, 198 F. Supp. 218 (1961);  
209 (iv) Sakezzie v. Utah Indian Affairs Commission, 215 F. Supp. 12 (1963);  
210 (v) the September 8, 1977, consent decree, the stipulation dated November 29, 1984,  
211 modifying the consent decree, and the court's memorandum opinion dated September 25, 1978,  
212 in Bigman v. Utah Navajo Development Council, Inc. C77-0031; and  
213 (vi) rulings related to Pelt v. Utah;

214 (b) review all potential sources of fund revenues;  
215 (c) prepare annual projections of money that will be available for Navajo programs;  
216 (d) identify the property owned by the fund;  
217 (e) establish and maintain a record system and retention schedule to retain records  
218 relating to the fund's property and operations, including:  
219 (i) records related to the ethics and conflict policy developed under Subsection (2)(c);  
220 (ii) requests for proposals and proposals received;  
221 (iii) contracts awarded;  
222 (iv) project progress and completion reports;  
223 (v) invoices; and  
224 (vi) purchasing records;  
225 (f) review the existing and proposed programs financed by the fund;  
226 (g) evaluate whether the programs described in Subsection (1)(f) are the most practical  
227 and cost-efficient means to provide the desired benefit to Navajos;  
228 (h) consult regularly with the administrators of the programs financed by the fund to  
229 obtain progress reports on the programs;  
230 (i) attend all meetings of:  
231 (i) the Dineh Committee; and  
232 (ii) the board;  
233 (j) certify that the expenditures of the fund:  
234 (i) comply with the state's fiduciary responsibilities as trustee of the fund; and  
235 (ii) are consistent with this section;  
236 (k) make an annual report:  
237 (i) to the:  
238 (A) board;  
239 (B) governor; and  
240 (C) Native American Legislative Liaison Committee, created in Section 36-22-1; and  
241 (ii) that:  
242 (A) identifies the source and amount of the revenue received by the fund;  
243 (B) identifies the recipient, purpose, and amount of the expenditures from the fund;  
244 (C) identifies specifically each of the fund's investments and the actual return and the

245 rate of return from each investment; and

246 (D) recommends any necessary statutory changes to improve administration of the fund  
247 or to protect the state from liability as trustee;

248 (l) submit a written annual report to the:

249 (i) Division of Indian Affairs;

250 (ii) Navajo Nation;

251 (iii) United States Bureau of Indian Affairs; and

252 (iv) United States Secretary of the Interior;

253 (m) establish, in conjunction with the state treasurer, the state auditor, and the Division  
254 of Finance, appropriate accounting practices for the fund receipts, expenditures, and  
255 investments according to generally accepted accounting principles;

256 (n) provide summary records of fund receipts, expenditures, and investments to the  
257 board and to the Dineh Committee at each of their meetings;

258 (o) pay administrative expenses from the fund;

259 (p) report monthly to the board about:

260 (i) the trust administrator's activities; and

261 (ii) the status of the fund; and

262 (q) call additional meetings of the Dineh Committee when necessary.

263 (2) In conjunction with the Dineh Committee and under the direction of the board, the  
264 trust administrator shall:

265 (a) before the beginning of each fiscal year, establish a list of the needs of Navajos for  
266 that year to be used for the annual budget;

267 (b) before the beginning of each fiscal year, develop and approve an annual budget for  
268 the fund;

269 (c) develop an ethics and conflict of interest policy that emphasizes the need to avoid  
270 even the appearance of conflict of interest or impropriety that is to apply to:

271 (i) the trust administrator;

272 (ii) the trust administrator's staff; and

273 (iii) the Dineh Committee;

274 (d) require the trust administrator, each of the trust administrator's staff, and each  
275 member of the Dineh Committee to sign and keep on file written documentation that

acknowledges:

(i) their receipt of the ethics and conflict of interest policy described in Subsection (2)(c); and

(ii) their willingness to abide by the ethics and conflict of interest policy described in Subsection (2)(c); and

(e) make expenditures from the fund "for the health, education, and general welfare of the Navajo Indians residing in San Juan County" as required by:

(i) Pub. L. No. 72-403, 47 Stat. 1418 (1933);

(ii) Pub. L. No. 90-306, 82 Stat. 121 (1968); and

(iii) this chapter.

(3) The trust administrator, under direction of the board, may:

(a) contract with public and private entities; and

(b) unless prohibited by law or this chapter, acquire and hold money and other property received in the administration of the fund.

Section 7. Section **51-10-205** is enacted to read:

**51-10-205. Expenditures from the fund.**

(1) (a) Under the direction of the board, the trust administrator may make expenditures from the fund in accordance with Subsection ~~51-10-204~~(2)(e):

(b) The board may enter into a cost sharing agreement with one or more governmental entities if the cost sharing agreement is recommended by at least five of the Utah Navajo Chapters.

(2) (a) Before making any expenditures from the fund to a service provider, the trust administrator shall:

(i) comply with Title 63G, Chapter 6a, Utah Procurement Code; and

(ii) review and approve the service provider's entire budget.

(b) The trust administrator may require that a service provider modify its budget or meet other conditions precedent established by the trust administrator before the service provider may receive expenditures from the fund.

(3) The trust administrator shall make an expenditure from the fund that is not an administrative expenditure by:

(a) preparing a written document that:

(i) defines specifically how the expenditure from the fund may be used;  
(ii) establishes any conditions precedent to use of the expenditure; and  
(iii) requires the recipient of fund money to provide the trust administrator with progress reports detailing how the money has been expended; and  
(b) obtaining the signature of the recipient on that document before releasing any money from the fund.

(4) The trust administrator shall:  
(a) make rules in accordance with Subsection (6) that:  
(i) establish policies and criteria for expenditure of fund money; and  
(ii) establish performance evaluation criteria with which to evaluate the success of expenditures from the fund after they are made;  
(b) develop procedures, forms, and standards for persons seeking distribution of fund money that implement the policies and criteria established by rule;  
(c) evaluate the requests for expenditures of fund money against:  
(i) the policies and criteria established by rule; and  
(ii) the requestor's success in meeting performance evaluation criteria and goals in any prior receipt of fund money;  
(d) develop performance goals for each fund expenditure that implement the performance evaluation criteria established in rule; and  
(e) monitor and evaluate each fund expenditure based upon the performance goals and performance evaluation criteria created under this Subsection (4).

(5) The trust administrator may expend fund money for per diem and expenses incurred by the Dineh Committee in performance of official duties.

(6) The trust administrator shall make a rule described in Subsection (4)(a):  
(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;  
(b) with the input and recommendation of the Dineh Committee; and  
(c) with the approval of the board.

Section 8. Section **51-10-206** is enacted to read:

**51-10-206. Dineh Committee.**  
(1) There is created the Dineh Committee.  
(2) (a) The governor, with the consent of the Senate, shall appoint nine members to the



338 Dineh Committee.

339 (b) In making an appointment under Subsection (2)(a), the governor shall ensure that  
340 the Dineh Committee includes:

341 (i) two registered members of the Aneth Chapter of the Navajo Nation who reside in  
342 San Juan County, Utah;

343 (ii) one registered member of the Blue Mountain Dine' who resides in San Juan  
344 County, Utah;

345 (iii) one registered member of the Mexican Water Chapter of the Navajo Nation who  
346 resides in San Juan County, Utah;

347 (iv) one registered member of the Navajo Mountain Chapter of the Navajo Nation who  
348 resides in San Juan County, Utah;

349 (v) subject to Subsection (4), two members who reside in San Juan County, Utah, one  
350 of whom is a registered member of the Oljato Chapter of the Navajo Nation, and one of whom  
351 is a registered member of either the Oljato Chapter or the Dennehotso Chapter of the Navajo  
352 Nation;

353 (vi) one registered member of the Red Mesa Chapter of the Navajo Nation who resides  
354 in San Juan County, Utah; and

355 (vii) one registered member of the Teec Nos Pos Chapter of the Navajo Nation who  
356 resides in San Juan County, Utah.

357 (3) (a) (i) Each chapter of the Utah Navajo Chapter, except the Aneth, Oljato, and  
358 Dennehotso chapters, shall submit to the governor the names of three nominees to the Dineh  
359 Committee chosen by the chapter.

360 (ii) The governor shall select one of the three persons whose names are submitted  
361 under Subsection (3)(a)(i) as that chapter's representative on the Dineh Committee.

362 (b) (i) The Blue Mountain Dine' shall submit to the governor the names of three  
363 nominees to the Dineh Committee.

364 (ii) The governor shall select one of the three persons whose names are submitted  
365 under Subsection (3)(b)(i) as the Blue Mountain Dine' representative on the Dineh Committee.

366 (c) (i) The Aneth Chapter shall submit to the governor the names of six nominees to  
367 the Dineh Committee chosen by the chapter.

368 (ii) The governor shall select two of the six persons whose names are submitted under

Subsection (3)(c)(i) to be the Aneth Chapter's representatives on the Dineh Committee.

(d) (i) The Oljato Chapter shall submit to the governor the names of six nominees to the Dineh Committee chosen by the chapter.

(ii) One of the six names submitted under Subsection (3)(d)(i) may be a registered member of the Dennehotso Chapter.

(iii) The governor shall select two of the six persons whose names are submitted under Subsection (3)(d)(i) to be the representatives on the Dineh Committee of the Oljato and Dennehotso chapters.

(e) Before submitting a name to the governor, the Utah Navajo Chapter and the Blue Mountain Dine' shall ensure that the individual's whose name is submitted:

(i) is an enrolled member of the Navajo Nation;

(ii) resides in San Juan County, Utah;

(iii) is 21 years of age or older;

(iv) is not an officer of the chapter;

(v) has not been convicted of a felony; and

(vi) is not currently, or who within the last 12 months has not been, an officer, director, employee, or contractor of a service provider that solicits, accepts, or receives a benefit from an expenditure of:

(A) the Division of Indian Affairs; or

(B) the fund.

(4) If both members appointed under Subsection (2)(b)(vi) are registered members of the Oljato Chapter, the two members shall attend Dennehotso Chapter meetings as practicable.

(5) (a) Except as provided in Subsection (5)(b) and other than the amount authorized by this section for Dineh Committee member expenses, a person appointed to the Dineh Committee may not solicit, accept, or receive any benefit from an expenditure of:

(i) the Division of Indian Affairs;

(ii) the fund; or

(iii) the Division of Indian Affairs or fund as an officer, director, employee, or contractor of a service provider that solicits, accepts, or receives a benefit from the expenditure of:

(A) the Division of Indian Affairs; or

400 (B) the fund.

401 (b) A member of the Dineh Committee may receive a benefit from an expenditure of

402 the fund if:

403 (i) when the benefit is discussed by the Dineh Committee:

404 (A) the member discloses that the member may receive the benefit;

405 (B) the member physically leaves the room in which the Dineh Committee is

406 discussing the benefit; and

407 (C) the Dineh Committee approves the member receiving the benefit by a unanimous

408 vote of the members present at the meeting discussing the benefit;

409 (ii) a Utah Navajo Chapter requests that the benefit be received by the member;

410 (iii) the member is in compliance with the ethics and conflict of interest policy required

411 under Subsection 51-10-204(2)(c);

412 (iv) (A) the expenditure from the fund is made in accordance with this chapter; and

413 (B) the benefit is no greater than the benefit available to members of the Navajo Nation

414 residing in San Juan County, Utah; and

415 (v) the member is not receiving the benefit as an officer, director, employee, or

416 contractor of a service provider.

417 (6) (a) (i) Except as required in Subsection (6)(a)(ii), as terms of current committee

418 members expire, the governor shall appoint each new member or reappointed member to a

419 four-year term.

420 (ii) The governor shall, at the time of appointment or reappointment, adjust the length

421 of terms to ensure that the terms of committee members are staggered so that approximately

422 half of the Dineh Committee is appointed every two years.

423 (b) Except as provided in Subsection (6)(c), a committee member shall serve until the

424 committee member's successor is appointed and qualified.

425 (c) If a committee member is absent from three consecutive committee meetings, or if

426 the committee member violates the ethical or conflict of interest policies established by statute

427 or the Dineh Committee:

428 (i) the committee member's appointment is terminated;

429 (ii) the position is vacant; and

430 (iii) the governor shall appoint a replacement.

431 (d) When a vacancy occurs in the membership for any reason, the governor shall  
432 appoint a replacement for the unexpired term according to the procedures of this section.

433 (7) (a) The committee members shall select a chair and vice chair from committee  
434 membership each two years subsequent to the appointment of new committee members.

435 (b) Five members of the Dineh Committee is a quorum for the transaction of business.

436 (c) The Dineh Committee shall:

437 (i) comply with Title 52, Chapter 4, Open and Public Meetings Act;

438 (ii) ensure that its meetings are held at or near:

439 (A) a chapter house or meeting hall of a Utah Navajo Chapter; or

440 (B) other places in Utah that the Dineh Committee considers practical and appropriate;

441 and

442 (iii) ensure that its meetings are public hearings at which a resident of San Juan  
443 County, Utah, may appear and speak.

444 (8) A committee member may not receive compensation or benefits for the committee  
445 member's service, but may receive per diem and travel expenses in accordance with:

446 (a) Section 63A-3-106;

447 (b) Section 63A-3-107; and

448 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
449 63A-3-107.

450 (9) The trust administrator shall staff the Dineh Committee.

451 (10) The Dineh Committee shall advise the trust administrator about the expenditure of  
452 fund money.

453 **Section 9. Repealer.**

454 This bill repeals:

455 Section **51-9-501**, Title.

456 Section **51-9-502**, Definitions.

457 Section **51-9-503**, Purpose statement.

458 Section **51-9-504**, Utah Navajo royalties and related issues.

---

---

**Legislative Review Note**  
**as of 1-20-15 1:58 PM**

**Office of Legislative Research and General Counsel**



**MEMORANDUM**

**TO:** Honorable Davis Filfred  
Navajo Nation Council

**FROM:** Mariana Kahn  
Mariana Kahn, Acting Chief Legislative Counsel  
Office of Legislative Counsel

**DATE:** January 26, 2015

**SUBJECT:** AN ACTION RELATING TO AN EMERGENCY; SUPPORTING THE  
UTAH STATE LEGISLATURE'S SENATE BILL 90 MODIFYING  
PROVISIONS RELATED TO PUBLIC FUNDS TO PROVIDE FOR THE  
NAVAJO TRUST FUND TO REPLACE THE UTAH NAVAJO  
ROYALTIES HOLDING FUND

Pursuant to your request, attached is the above-referenced proposed resolution and associated legislative summary sheet. Based on existing law and review of the documents submitted, the resolution as drafted is legally sufficient. However, as with all legislation, it is subject to review by the courts in the event of a challenge.

Please review the proposed resolution to ensure it is drafted to your satisfaction. If this proposed resolution is acceptable to you, please sign it where it indicates "Prime Sponsor", and submit it to the Office of Legislative Services for the assignment of a tracking number and referral to the Speaker.

If the proposed resolution is unacceptable to you, or if you have further questions, please contact me at the Office of Legislative Counsel and advise me of changes you would like made to the proposed resolution. You may contact me at (928) 871-7166. Thank you.

OLC No. 15-180-1