

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

3 2021 GENERAL SESSION

4 STATE OF UTAH

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

6 House Sponsor: Christine F. Watkins

7 Cosponsor:

8 Jani Iwamoto

10 **LONG TITLE**

11 **General Description:**

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

14 **Highlighted Provisions:**

15 This resolution:

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

22 **Special Clauses:**

23 None

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

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

29 Utah;

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

32 WHEREAS, those efforts produced a fair, equitable, and final settlement embodied in a
33 document entitled "Navajo Utah Water Rights Settlement Agreement" dated December 14,
34 2015;

35 WHEREAS, the United States Congress approved that agreement with passage of H.R.
36 133, the "Consolidated Appropriations Act, 2021," which contains, in Section 1102, the
37 Navajo-Utah Water Rights Settlement, and which was signed by President Trump;

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

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

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

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

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

56 WHEREAS, to finalize the settlement, the 2021 Consolidated Appropriations Act

57 requires the state of Utah to:

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

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

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

68 WHEREAS, the Governor has given approval of the proposed financial settlement
69 agreement as required by Section [63G-10-201](#);

70 WHEREAS, pursuant to Utah Code Section [63G-10-202](#), after the Governor's approval
71 of a financial settlement, a financial settlement that will cost government entities more than
72 \$1,000,000 to implement requires the Utah Legislature's approval before execution; and

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

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

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

81 (2) obtain an interlocutory decree in the Seventh District Court general adjudication
82 proceeding confirming the Navajo water rights consistent with the 2015 Agreement and the
83 2021 Consolidated Appropriations Act; and

84 (3) provide \$8,000,000 to be transferred to the Navajo Water Development Projects

85 Account.

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

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