

NAVAJO REVITALIZATION FUND AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Judy Ann Buffmire

This act modifies the Navajo Revitalization Fund Act and the Revenue and Taxation Code. The act clarifies what is an eligible entity under the fund, who can provide matching monies or services, and the purpose of the fund. The act modifies priorities for the fund and how fund monies may be distributed. This act makes technical changes.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

9-11-102, as enacted by Chapter 135, Laws of Utah 1996

9-11-103, as enacted by Chapter 135, Laws of Utah 1996

9-11-107, as enacted by Chapter 135, Laws of Utah 1996

59-5-119, as enacted by Chapter 135, Laws of Utah 1996

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

Section 1. Section **9-11-102** is amended to read:

9-11-102. Definitions.

As used in this chapter:

- (1) "Board" means the Navajo Revitalization Fund Board.
- (2) "Capital projects" means expenditures for land, improvements on the land, and equipment intended to have long-term beneficial use.
- (3) "Division" means the Division of Community Development.
- (4) "Eligible entities" means:
 - (a) the Navajo Nation [~~or~~];
 - (b) a department or division of the Navajo Nation;
 - (c) a Utah Navajo Chapter, as defined in Section 63-88-101;
 - ~~(d)~~ (d) the Navajo Utah Commission;
 - ~~(e)~~ (e) an agency of the state or a political subdivision of the state;
 - ~~(f)~~ (f) the Navajo Trust Fund established under Title 63, Chapter 88, Navajo Trust Fund;

or

~~[(e)]~~ (g) a nonprofit corporation.

(5) "Navajo Utah Commission" means the commission created by Resolution IGRJN-134-92 of the Intergovernmental Relations Committee of the Navajo Nation Council.

(6) "Revitalization fund" or "fund" means the Navajo Revitalization Fund.

Section 2. Section 9-11-103 is amended to read:

9-11-103. Legislative intent.

(1) The purpose of this chapter is to:

~~[(+)]~~ (a) maximize the long-term benefit of state severance taxes derived from lands in Utah held in trust by the United States for the Navajo Nation and its members by fostering funding mechanisms that will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of San Juan County; and

~~[(2)]~~ (b) promote cooperation and coordination between the state, its political subdivisions, Indian tribes, and individuals, firms, and business organizations engaged in the development of oil and gas interests in Utah held in trust by the United States for the Navajo Nation and its members.

(2) Notwithstanding Subsection (1), the fund:

(a) consists of state severance tax monies to be spent at the discretion of the state; and

(b) does not constitute a trust fund.

Section 3. Section 9-11-107 is amended to read:

9-11-107. Revitalization fund administered by board -- Eligibility for assistance -- Review by board -- Restrictions on loans and grants -- Governor approval prerequisite -- Division to distribute monies.

(1) (a) If an eligible entity wishes to receive a loan or grant from the board, the eligible entity shall apply to the board. The application shall contain the information required by the board.

(b) The board shall review each application for a loan or grant before approving the loan or grant.

(c) The board may approve loan or grant applications subject to the applicant's compliance with certain conditions established by the board.

(2) In determining whether an eligible entity may receive a loan or grant, the board shall give priority to:

(a) capital projects and infrastructure, including electrical power, water, and other one time need projects; ~~or~~

(b) housing projects that consist of:

(i) the purchase of new housing;

(ii) the construction of new housing; or

(iii) a significant remodeling of existing housing; or

~~(b)~~ (c) matching educational endowments that:

(i) promote economic development within the Utah portion of the Navajo Reservation;

(ii) promote the preservation of Navajo culture, history, and language; or

(iii) support postsecondary educational opportunities for Navajo students enrolled in courses or programs taught within the Utah portion of the Navajo Reservation.

(3) A loan or grant issued under this chapter may not fund:

(a) start-up or operational costs of private business ventures;

(b) general operating budgets of the eligible entities; or

(c) a project or program that will operate or be located outside of the Navajo Reservation in San Juan County, Utah, except for educational endowments approved by the board under Subsection ~~(2)(b)~~ (c).

(4) (a) The board may not approve a loan unless the loan:

(i) specifies the terms for repayment; and

(ii) is secured by proceeds from a general obligation, special assessment, or revenue bond, note, or other obligation.

(b) Any loan repayment or interest on a loan issued under this chapter shall be deposited into the ~~[Revitalization]~~ fund.

(5) The board may not approve a loan or grant unless the loan or grant provides for matching monies or in-kind services from:

(a) the Navajo Nation~~[-];~~

- (b) the Navajo Trust Fund[;];
- (c) San Juan County[;];
- (d) the state[;];
- (e) the federal government[, or];
- (f) a Utah Navajo Chapter, as defined in Section 63-88-101; or
- (g) other private or public organization.

(6) (a) During any fiscal year, the board may not approve a loan or grant unless the governor notifies the division in writing that loans and grants may be approved during that fiscal year.

(b) The governor shall provide the notice required by Subsection (6)(a) if the governor finds that there is progress in resolving issues between:

- (i) the state, including its political subdivisions[;]; and
- (ii) (A) the Navajo Nation; or
- (B) the members of the Navajo Nation living in Utah.

(7) The division shall distribute loan and grant monies:

- (a) if the loan or grant is approved by the board[;];
- (b) in accordance with the instructions of the board, except that the board may not instruct that monies be distributed in a manner:

- (i) inconsistent with this chapter; or
- (ii) in violation of rules and procedures of the department; and
- (c) in the case of a loan, in accordance with Section 63A-3-205.

Section 4. Section **59-5-119** is amended to read:

59-5-119. Disposition of certain taxes collected on Navajo Nation Land located in Utah.

(1) Except as provided in Subsection (2), ~~[commencing July 1, 1997;]~~ there shall be deposited into the Navajo Revitalization Fund established in Section 9-11-104 for taxes imposed under this part beginning on July 1, 1997:

- (a) 33% of the taxes ~~[imposed and]~~ collected ~~[under Section 59-5-102 from all wells existing on or before June 30, 1996, producing from]~~ on oil ~~[and]~~, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or before June 30, 1996; and

(ii) attributable to interests in Utah held in trust by the United States for the Navajo Nation and its members; and

(b) 80% of the taxes [~~imposed and~~] collected [~~under Section 59-5-102 from new wells beginning production on or after July 1, 1996, producing from~~] on oil [~~and~~], gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or after July 1, 1996; and

(ii) attributable to interests in Utah held in trust by the United States for the Navajo Nation and its members.

(2) (a) The maximum amount deposited in the Navajo Revitalization Fund may not exceed \$2,000,000 in [~~one~~] any state fiscal year.

(b) Any amounts in excess of the maximum described in Subsection (2)(a) shall be deposited into the General Fund.