

**INDIAN AFFAIRS RELATED AMENDMENTS**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Beverly Ann Evans**

**This act modifies the Community and Economic Development title and the Wildlife Resources Code to address issues affecting Indians. This act clarifies purposes for which monies may be distributed from the Uintah Basin Revitalization Fund. This act modifies the process for review of certain agreements with Indian tribes. This act makes technical changes.**

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

AMENDS:

**9-10-106**, as enacted by Chapter 341, Laws of Utah 1995

**23-13-12.5**, as enacted by Chapter 164, Laws of Utah 2000

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

Section 1. Section **9-10-106** is amended to read:

**9-10-106. Eligibility for assistance -- Applications -- Review by board -- Terms -- Security.**

(1) ~~[Counties]~~ If a county or the Tribe ~~[that wish]~~ wants to receive ~~[loans]~~ a loan or ~~[grants]~~ grant from the board, the county or the Tribe shall submit a formal ~~[applications]~~ application to the board containing the information required by the board.

(2) (a) The board may not fund:

~~[(a)]~~ (i) start-up or operational costs of a private business ~~[ventures]~~ venture; ~~[and]~~ or

~~[(b)]~~ (ii) general operating budgets of ~~[the counties]~~;

(A) a county; or

(B) the Tribe.

(b) The board may fund programs that provide assistance to:

(i) a postsecondary educational institution; or



(ii) an individual enrolled in a postsecondary educational institution.

(3) (a) The board shall review each application for a loan or grant before approving [it] the loan or grant.

(b) The board may approve a loan or grant [~~applications~~] application subject to the applicant's compliance with [~~certain~~] conditions established by the board.

(c) The board shall:

(i) ensure that each loan issued by the fund specifies the terms for repayment; and

(ii) secure [~~the loans~~] a loan issued by the fund by proceeds from any of the following of the appropriate county or Tribe:

(A) a general obligation[;];

(B) a special assessment[;]; or

(C) revenue bonds, notes, or other obligations [~~of the appropriate subdivision~~].

Section 2. Section **23-13-12.5** is amended to read:

**23-13-12.5. Agreement with tribe.**

(1) As used in this section, "tribe" means a federally recognized:

(a) Indian tribe; or

(b) Indian band.

(2) (a) Subject to the requirements of this section, the governor may enter into an agreement with a tribe to settle a dispute between the state and the tribe concerning a hunting, fishing, or trapping right claim that is:

(i) based on:

(A) a treaty;

(B) an aboriginal right; or

(C) other recognized federal right; and

(ii) on lands located within the state.

(b) Except as provided in Subsection (2)(c), an agreement permitted under Subsection (2)(a) may not exempt any person from the requirements of this title.

(c) An agreement permitted under Subsection (2)(a) may exempt or partially exempt a tribe that is a party to the agreement or a member of that tribe from:

(i) Section 23-16-5, placing a limit of one of any species of big game during a license year;

(ii) Section 23-16-6, commencement date of the general deer season;

(iii) a hunter or furharvester education requirement under Chapter 19, Licenses, Permits, and Tags;

(iv) an age restriction under Chapter 19, Licenses, Permits, and Tags;

(v) paying a fee required under this title to obtain a hunting, fishing, or trapping license or permit;

(vi) obtaining a license or permit required under this title to hunt, trap, or fish; or

(vii) complying with a rule or proclamation of the Wildlife Board if the exemption is not inconsistent with this title.

(d) An agreement permitted under Subsection (2)(a) shall:

(i) be in writing;

(ii) be signed by:

(A) the governor; and

(B) the governing body of the tribe that:

(I) is designated by the tribe; and

(II) may bind the tribe to the terms of the agreement;

(iii) be conditioned on obtaining any approval required by federal law;

(iv) state the effective date of the agreement;

(v) provide that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute for which an exemption is not authorized under this section; and

(vi) include any accommodation made by the tribe that:

(A) is agreed to by the tribe;

(B) is reasonably related to the agreement; and

(C) concerns the management and use of wildlife resources or habitat.

(e) Prior to executing an agreement under this Subsection (2), the governor shall consult with:

(i) the division; and

(ii) the chair of the Wildlife Board created in Section 23-14-2.

(f) At least 30 days before the agreement under this Subsection (2) is executed, the governor or the governor's designee shall ~~[present the proposed agreement]~~ provide a copy of the agreement in the form that the agreement will be executed to:

- 90            (i) the chairs of the Native American Legislative Liaison Committee [~~at a meeting of the~~  
91 ~~Native American Legislative Liaison Committee.~~]; and  
92            (ii) the Office of Legislative Research and General Counsel.
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**Legislative Review Note**  
**as of 12-21-01 1:55 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**