

UTAH NAVAJO ROYALTIES AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Jack R. Draxler

LONG TITLE

General Description:

This bill modifies the Transition for Repealed Navajo Trust Fund Act to address tuition paid for enrolled members of the Navajo Nation residing in San Juan County, Utah.

Highlighted Provisions:

This bill:

- ▶ provides that the amount of financial assistance may be increased when there are tuition or fee increases charged at postsecondary schools operating in Utah; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

This bill has retrospective operation to January 1, 2013.

Utah Code Sections Affected:

AMENDS:

51-9-504, as last amended by Laws of Utah 2012, Chapters 212 and 233

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

Section 1. Section **51-9-504** is amended to read:

51-9-504. Utah Navajo royalties and related issues.



28 (1) (a) Notwithstanding Title 63, Chapter 88, Navajo Trust Fund, repealed July 1,
29 2008, and except as provided in Subsection (7), the following are subject to this Subsection (1):

- 30 (i) the repealed board of trustees;
- 31 (ii) the repealed trust administrator;
- 32 (iii) an employee or agent of the repealed Navajo Trust Fund; or
- 33 (iv) the repealed Dineh Committee.

34 (b) The repealed board of trustees may not:

35 (i) beginning on March 17, 2008, take an action that imposes or may impose a liability
36 or obligation described in Subsection (1)(d) that is:

37 (A) anticipated to be completed on or after January 1, 2010; or

38 (B) equal to or greater than \$100,000; or

39 (ii) on or after May 5, 2008, take an action that imposes or may impose a liability or
40 obligation described in Subsection (1)(d).

41 (c) On or after March 17, 2008, a person described in Subsections (1)(a)(ii) through
42 (iv) may not take an action that imposes or may impose a liability or obligation described in
43 Subsection (1)(d).

44 (d) Subsection (1)(b) applies to a liability or obligation on:

45 (i) the repealed Navajo Trust Fund;

46 (ii) the Navajo Revitalization Fund created under Title 35A, Chapter 8, Part 17, Navajo
47 Revitalization Fund Act;

48 (iii) the state; or

49 (iv) any of the following related to an entity described in this Subsection (1)(d):

50 (A) a department;

51 (B) a division;

52 (C) an office;

53 (D) a committee;

54 (E) a board;

55 (F) an officer;

56 (G) an employee; or

57 (H) a similar agency or individual.

58 (2) The Division of Finance shall:

- 59 (a) establish a fund by no later than July 1, 2008:
- 60 (i) to hold:
- 61 (A) the money in the repealed Navajo Trust Fund as of June 30, 2008;
- 62 (B) Utah Navajo royalties received by the state on or after July 1, 2008;
- 63 (C) revenues from investments made by the state treasurer of the money in the fund
- 64 established under this Subsection (2)(a);
- 65 (D) money owed to the repealed Navajo Trust Fund, including money received by the
- 66 repealed trust administrator or repealed Dineh Committee from an agreement executed by:
- 67 (I) the repealed board of trustees;
- 68 (II) the repealed trust administrator; or
- 69 (III) the repealed Dineh Committee; and
- 70 (E) money related to litigation, including settlement of litigation related to Utah Navajo
- 71 royalties; and
- 72 (ii) from which money may not be transferred or expended, except:
- 73 (A) as provided in Subsection (7); or
- 74 (B) as authorized by congressional action to designate a new recipient of the Utah
- 75 Navajo royalties; and
- 76 (b) by no later than July 1, 2008, transfer to the fund created under Subsection (2)(a) in
- 77 a manner consistent with this section the related assets and liabilities of the repealed Navajo
- 78 Trust Fund, including the transfer of money in the repealed Navajo Trust Fund.
- 79 (3) The state treasurer shall invest money in the fund created in Subsection (2)(a) in
- 80 accordance with Title 51, Chapter 7, State Money Management Act.
- 81 (4) (a) By no later than May 5, 2008, the repealed board of trustees shall:
- 82 (i) adopt a list of all related assets and liabilities of the repealed trust fund that are not
- 83 satisfied by May 5, 2008, which may include assets and liabilities that are contingent in nature
- 84 or amount;
- 85 (ii) adopt a list of all individuals who at the time of adoption meet the requirements of
- 86 Subsection (7)(b); and
- 87 (iii) provide a copy of the lists described in Subsections (4)(a)(i) and (ii) to:
- 88 (A) the state auditor; and
- 89 (B) the Department of Administrative Services.

90 (b) The state auditor, in addition to completing its Fiscal Year 2007-2008 audit of the
91 repealed Navajo Trust Fund, shall:

92 (i) verify the list of the related assets and liabilities of the repealed Navajo Trust Fund
93 adopted by the repealed board of trustees under Subsection (4)(a) by no later than June 30,
94 2008; and

95 (ii) provide a written copy of the verification to the governor and the Legislature by no
96 later than July 30, 2008.

97 (5) The governor shall ensure that the reporting requirements under P.L. 90-306, 82
98 Stat. 121, are met.

99 (6) The Department of Administrative Services, in cooperation with the Department of
100 Human Resources, may assist employees of the repealed Navajo Trust Fund as of June 30,
101 2008, in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

102 (7) With the fund created under Subsection (2) and the fixed assets of the repealed
103 Navajo Trust Fund, the Department of Administrative Services shall:

104 (a) subject to Subsection (8), fulfill the liabilities and obligations of the repealed
105 Navajo Trust Fund as of June 30, 2008;

106 (b) provide [~~money~~] financial assistance to an individual enrolled member of the
107 Navajo Nation who:

108 (i) resides in San Juan County;

109 (ii) as of June 30, 2014, has received [~~money~~] financial assistance under this
110 Subsection (7)(b) for postsecondary education;

111 (iii) beginning the later of June 30 or the day on which the individual first receives
112 [~~money~~] financial assistance under this Subsection (7)(b), is enrolled in postsecondary
113 education in any state for the equivalent of at least two semesters each year; and

114 (iv) meets the eligibility requirements adopted by the repealed board of trustees as of
115 March 17, 2008, except that the Department of Administrative Services may increase the
116 amount of financial assistance received by an individual under this Subsection (7)(b) when
117 there are increases in tuition or fees charged at postsecondary institutions operating in the state;

118 (c) through the Division of Facilities Construction and Management, reasonably
119 maintain the fixed assets of the repealed Navajo Trust Fund, to the extent that a lessee of a
120 fixed asset is not required by a lease to maintain a fixed asset;

121 (d) through the Division of Facilities Construction and Management, take those steps
122 necessary to secure the purchase:

123 (i) of the following that is owned by the repealed Navajo Trust Fund as of May 5,
124 2008:

125 (A) the government service building; or

126 (B) another fixed asset of the repealed Navajo Trust Fund, if the sale of the fixed asset
127 is consistent with the obligations of the state with regard to the Utah Navajo royalties; and

128 (ii) (A) in an arms length manner; and

129 (B) so that fair market compensation is paid to the repealed Navajo Trust Fund; and

130 (e) charge the fund established under Subsection (2)(a) for the expenses that are
131 necessary and reasonable to comply with the requirements of this Subsection (7).

132 (8) To fulfill the liabilities and obligations of the repealed Navajo Trust Fund as of
133 June 30, 2008, the Division of Finance may expend money from the fund:

134 (a) for a liability or obligation incurred before March 17, 2008, to the extent that the
135 expenditure was expressly a liability or obligation of the repealed Navajo Trust Fund as of
136 March 17, 2008; and

137 (b) on and after March 11, 2010, for a project approved under Subsection (1)(b)(i) by
138 the repealed board of trustees, except that the Division of Finance may not expend money from
139 the fund for a project approved under Subsection (1)(b)(i):

140 (i) in excess of \$100,000 in the aggregate for the project; or

141 (ii) to fulfill a liability or obligation related to the project if the expenditure would be
142 on or after the earlier of:

143 (A) the day on which money from the fund is transferred as authorized by
144 congressional action to designate a new recipient of the Utah Navajo royalties; or

145 (B) January 1, 2014.

146 (9) Unless expressly prohibited by this part, the state may take any action with regard
147 to the assets held by the state under this part that is consistent with the obligations of the state
148 related to the Utah Navajo royalties.

149 **Section 2. Effective date -- Retrospective operation.**

150 (1) If approved by two-thirds of all the members elected to each house, this bill takes
151 effect upon approval by the governor, or the day following the constitutional time limit of Utah

152 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
153 the date of veto override.

154 (2) This bill has retrospective operation to January 1, 2013.

Legislative Review Note
as of 12-18-12 2:29 PM

Office of Legislative Research and General Counsel