

Representative Kenneth W. Sumsion proposes the following substitute bill:

UTAH ENABLING ACT LITIGATION

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kenneth W. Sumsion

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires the attorney general to take action to enforce the Utah Enabling Act if the United States does not comply with certain demands.

Highlighted Provisions:

This bill:

- ▶ requires the attorney general to:
 - send a demand letter to the United States; and
 - file an action for a declaratory judgment to enforce Section 9 of the Utah Enabling Act if the United States does not comply with the demands; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates:

▶ to the Attorney General - Enabling Act Litigation line item a one-time transfer of \$350,000 that was appropriated in fiscal year 2011-12 to the Governor's Office - Public Lands Litigation from the Constitutional Defense Restricted Account, subject to intent language stating that the appropriation is to be used to file certain actions.

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **67-5-29**, as enacted by Laws of Utah 2010, Chapter 262

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

32 Section 1. Section **67-5-29** is amended to read:

33 **67-5-29. Duty to make demands and file legal actions.**

34 (1) (a) On or before July 1, 2012, the attorney general shall send a letter to the United
35 States demanding that by February 15, 2013, the United States commit to:

36 (i) selling public lands held by the United States in Utah and depositing 5% of the
37 proceeds of the sale in the permanent State School Fund as required by the Utah Enabling Act,
38 Section 9; or

39 (ii) ceding control of, management of, and authority to sell public lands held by the
40 United States in Utah to the state.

41 (b) Unless the United States substantially complies with the demand described in
42 Subsection (1)(a), the attorney general shall file an action on or before April 15, 2013, in
43 United States district court to obtain a declaratory judgment to enforce the Utah Enabling Act,
44 Section 9.

45 ~~[(1)]~~ (c) The attorney general may file an action in addition to the action described in
46 Subsection (1)(b) to enforce the Utah Enabling Act, Section 9.

47 (2) In accordance with Title 78B, Chapter 6, Particular Proceedings, the attorney
48 general shall file an eminent domain action or quiet title action on property possessed by the
49 federal government:

50 (a) (i) that facilitates the state's ability to manage the school and institutional trust lands
51 consistent with the state's fiduciary responsibilities towards the beneficiaries of the trust lands;
52 and

53 (ii) (A) that provides access to school and institutional trust lands; or

54 (B) that increases the profitability of the school and institutional trust lands; or

55 (b) for a public use that increases the ability of the state to generate revenue.

56 (3) The attorney general shall file, by no later than July 1, 2011, an eminent domain

57 action or quiet title action described in Subsection (2) on property possessed by the federal
58 government for:

59 (a) a highway on Spring Creek Road located in the western half of section 3, township
60 38 south, range 12 west to provide access to section 2, township 38 south, range 12 west;

61 (b) a highway off of Old Canyon Road located in the northeast quarter of the southeast
62 quarter of section 5, township 10 north, range 5 east to provide access to the southeast quarter
63 of the southeast quarter of section 32, township 11 north, range 5 east; or

64 (c) the purposes described in Subsection (2).

65 **Section 2. Fiscal Year 2012 Supplemental Appropriation.**

66 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
67 following sums of money are appropriated from resources not otherwise appropriated, or
68 reduced from amounts previously appropriated, out of the funds or accounts indicated for the
69 fiscal year beginning July 1, 2011 and ending June 30, 2012. These are additions to amounts
70 previously appropriated for fiscal year 2012.

71 Item 1 To Governor's Office - Public Lands Litigation

72 From General Fund Restricted - Constitutional Defense (\$350,000)

73 Schedule of Programs:

74 Public Lands Litigation (\$350,000)

75 Item 2 To Attorney General - Enabling Act Litigation

76 From General Fund Restricted - Constitutional Defense \$350,000

77 Schedule of Programs:

78 Enabling Act Litigation \$350,000

79 The Legislature intends that the Attorney General use this appropriation only to file an
80 action in accordance with Section 67-5-29.

81 Under Section 63J-1-603, the Legislature intends that appropriations provided for the
82 Attorney General - Public Lands Litigation line item in this section not lapse at the close of
83 Fiscal Year 2012. The use of any nonlapsing funds is limited to filing an action in accordance
84 with Section 67-5-29.