

Senator Ronald Winterton proposes the following substitute bill:

ATTORNEY GENERAL AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronald Winterton

House Sponsor: Logan Wilde

LONG TITLE

General Description:

This bill requires the attorney general to provide a special advisor to the Office of the Governor and the Office of the Attorney General regarding Native American and tribal issues.

Highlighted Provisions:

This bill:

- ▶ requires the attorney general to provide a special advisor to the Office of the Governor and the Office of the Attorney General regarding Native American and tribal issues; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the Attorney General, as an ongoing appropriation:
 - from the General Fund, \$250,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 [67-5-1](#), as last amended by Laws of Utah 2018, Chapters 200, 473, and 474

27

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

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

30 **67-5-1. General duties.**

31 The attorney general shall:

32 (1) perform all duties in a manner consistent with the attorney-client relationship under
33 Section [67-5-17](#);

34 (2) except as provided in Sections [10-3-928](#) and [17-18a-403](#), attend the Supreme Court
35 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
36 defend all causes to which the state or any officer, board, or commission of the state in an
37 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the
38 state is interested;

39 (3) after judgment on any cause referred to in Subsection (2), direct the issuance of
40 process as necessary to execute the judgment;

41 (4) account for, and pay over to the proper officer, all money that comes into the
42 attorney general's possession that belongs to the state;

43 (5) keep a file of all cases in which the attorney general is required to appear, including
44 any documents and papers showing the court in which the cases have been instituted and tried,
45 and whether they are civil or criminal, and:

46 (a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to
47 judgment, a memorandum of the judgment and of any process issued if satisfied, and if not
48 satisfied, documentation of the return of the sheriff;

49 (b) if criminal, the nature of the crime, the mode of prosecution, the stage of
50 proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the
51 execution, if the sentence has been executed, and, if not executed, the reason for the delay or
52 prevention; and

53 (c) deliver this information to the attorney general's successor in office;

54 (6) exercise supervisory powers over the district and county attorneys of the state in all
55 matters pertaining to the duties of their offices, and from time to time require of them reports of
56 the condition of public business entrusted to their charge;

57 (7) give the attorney general's opinion in writing and without fee, when required, upon
58 any question of law relating to the office of the requester:

59 (a) in accordance with Section 67-5-1.1, to the Legislature or either house;

60 (b) to any state officer, board, or commission; and

61 (c) to any county attorney or district attorney;

62 (8) when required by the public service or directed by the governor, assist any county,
63 district, or city attorney in the discharge of county, district, or city attorney's duties;

64 (9) purchase in the name of the state, under the direction of the state Board of
65 Examiners, any property offered for sale under execution issued upon judgments in favor of or
66 for the use of the state, and enter satisfaction in whole or in part of the judgments as the
67 consideration of the purchases;

68 (10) when the property of a judgment debtor in any judgment mentioned in Subsection
69 (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
70 taking precedence of the judgment in favor of the state, redeem the property, under the
71 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and
72 pay all money necessary for the redemption, upon the order of the state Board of Examiners,
73 out of any money appropriated for these purposes;

74 (11) when in the attorney general's opinion it is necessary for the collection or
75 enforcement of any judgment, institute and prosecute on behalf of the state any action or
76 proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment
77 debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of
78 Examiners, out of any money not otherwise appropriated;

79 (12) discharge the duties of a member of all official boards of which the attorney
80 general is or may be made a member by the Utah Constitution or by the laws of the state, and
81 other duties prescribed by law;

82 (13) institute and prosecute proper proceedings in any court of the state or of the
83 United States to restrain and enjoin corporations organized under the laws of this or any other
84 state or territory from acting illegally or in excess of their corporate powers or contrary to
85 public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations,
86 and wind up their affairs;

87 (14) institute investigations for the recovery of all real or personal property that may

88 have escheated or should escheat to the state, and for that purpose, subpoena any persons
89 before any of the district courts to answer inquiries and render accounts concerning any
90 property, examine all books and papers of any corporations, and when any real or personal
91 property is discovered that should escheat to the state, institute suit in the district court of the
92 county where the property is situated for its recovery, and escheat that property to the state;

93 (15) administer the Children's Justice Center as a program to be implemented in
94 various counties pursuant to Sections 67-5b-101 through 67-5b-107;

95 (16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a,
96 Constitutional and Federalism Defense Act;

97 (17) pursue any appropriate legal action to implement the state's public lands policy
98 established in Section 63C-4a-103;

99 (18) investigate and prosecute violations of all applicable state laws relating to fraud in
100 connection with the state Medicaid program and any other medical assistance program
101 administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

102 (19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients
103 at:

104 (a) health care facilities that receive payments under the state Medicaid program; and

105 (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.

106 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility;

107 (20) (a) report at least twice per year to the Legislative Management Committee on any
108 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

109 (i) cost the state more than \$500,000; or

110 (ii) require the state to take legally binding action that would cost more than \$500,000
111 to implement; and

112 (b) if the meeting is closed, include an estimate of the state's potential financial or other
113 legal exposure in that report;

114 (21) (a) submit a written report to the committees described in Subsection (21)(b) that
115 summarizes the status and progress of any lawsuits that challenge the constitutionality of state
116 law that were pending at the time the attorney general submitted the attorney general's last
117 report under this Subsection (21), including any:

118 (i) settlements reached;

- 119 (ii) consent decrees entered; or
- 120 (iii) judgments issued; and
- 121 (b) at least 30 days before the Legislature's May and November interim meetings,
- 122 submit the report described in Subsection (21)(a) to:
- 123 (i) the Legislative Management Committee;
- 124 (ii) the Judiciary Interim Committee; and
- 125 (iii) the Law Enforcement and Criminal Justice Interim Committee;
- 126 (22) if the attorney general operates the Office of the Attorney General or any portion
- 127 of the Office of the Attorney General as an internal service fund agency in accordance with
- 128 Section 67-5-4, submit to the rate committee established in Section 67-5-34:
- 129 (a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
- 130 (b) any other information or analysis requested by the rate committee;
- 131 (23) before the end of each calendar year, create an annual performance report for the
- 132 Office of the Attorney General and post the report on the attorney general's website;
- 133 (24) ensure that any training required under this chapter complies with Title 63G,
- 134 Chapter 22, State Training and Certification Requirements; ~~and~~
- 135 (25) notify the legislative general counsel in writing within three business days after
- 136 the day on which the attorney general is officially notified of a claim, regardless of whether the
- 137 claim is filed in state or federal court, that challenges:
- 138 (a) the constitutionality of a state statute;
- 139 (b) the validity of legislation; or
- 140 (c) any action of the Legislature[-]; and
- 141 (26) provide a special advisor to the Office of the Governor and the Office of the
- 142 Attorney General in matters relating to Native American and tribal issues to:
- 143 (a) establish outreach to the tribes and affected counties and communities; and
- 144 (b) foster better relations and a cooperative framework.

Section 2. **Appropriation.**

145

146 The following sums of money are appropriated for the fiscal year beginning July 1,

147 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for

148 fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures

149 Act, the Legislature appropriates the following sums of money from the funds or accounts

150 indicated for the use and support of the government of the state of Utah.

151 ITEM 1

152 To Attorney General

153 From General Fund

\$250,000

154 Schedule of Programs:

155 Civil

\$250,000

156 The Legislature intends that the Attorney General use the appropriation under this item

157 to implement the requirement described in Subsection [67-5-1\(26\)](#).