

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 file an 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 file an action for a declaratory judgment to enforce Section 9 of the Utah Enabling Act if the United States does not comply with certain demands;
- ▶ amends provisions relating to the appropriation of money from the Land Exchange Distribution Account; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates to the Attorney General - Enabling Act Litigation line item:

- ▶ as an one-time appropriation from the Land Exchange Distribution Account, \$1,000,000, subject to intent language stating that the appropriation is to be used to file certain actions; and
- ▶ the unexpended nonlapsing balance of up to \$2,000,000 that was appropriated in fiscal years 2010-11 and 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.



28 **Other Special Clauses:**

29 This bill provides revisor instructions.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53C-3-203**, as last amended by Laws of Utah 2011, Chapters 247, 252, 303 and last
33 amended by Coordination Clause, Laws of Utah 2011, Chapter 252

34 **67-5-29**, as enacted by Laws of Utah 2010, Chapter 262

35

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

37 Section 1. Section **53C-3-203** is amended to read:

38 **53C-3-203. Land Exchange Distribution Account.**

39 (1) As used in this section, "account" means the Land Exchange Distribution Account
40 created in Subsection (2)(a).

41 (2) (a) There is created within the General Fund a restricted account known as the Land
42 Exchange Distribution Account.

43 (b) The account shall consist of revenue deposited in the account as required by
44 Section 53C-3-202.

45 (3) (a) The state treasurer shall invest money in the account according to Title 51,
46 Chapter 7, State Money Management Act.

47 (b) The Division of Finance shall deposit interest or other earnings derived from
48 investment of account money into the General Fund.

49 (4) The Legislature shall annually appropriate from the account in the following order:

50 (a) (i) for fiscal year 2011-12 only, \$1,000,000 to the Constitutional Defense Restricted
51 Account created in Section 63C-4-103;

52 (ii) for fiscal year 2012-13 only, \$1,000,000 to the Office of the Attorney General, to
53 be used to file an action in accordance with Section 67-5-29; and

54 [~~a~~] (iii) beginning fiscal year 2013-14, \$1,000,000 to the Constitutional Defense
55 Restricted Account created in Section 63C-4-103; and

56 (b) from the deposits to the account remaining after the appropriation in Subsection
57 (4)(a), the following amounts:

58 (i) 55% of the deposits to counties in amounts proportionate to the amounts of mineral

59 revenue generated from the acquired land, exchanged land, acquired mineral interests, or
60 exchanged mineral interests located in each county, to be used to mitigate the impacts caused
61 by mineral development;

62 (ii) 25% of the deposits to counties in amounts proportionate to the total surface and
63 mineral acreage within each county that was conveyed to the United States under the agreement
64 or an exchange, to be used to mitigate the loss of mineral development opportunities resulting
65 from the agreement or exchange;

66 (iii) 1.68% of the deposits to the State Board of Education, to be used for education
67 research and experimentation in the use of staff and facilities designed to improve the quality
68 of education in Utah;

69 (iv) 1.66% of the deposits to the Geological Survey, to be used for natural resources
70 development in the state;

71 (v) 1.66% of the deposits to the Water Research Laboratory at Utah State University, to
72 be used for water development in the state;

73 (vi) 11% of the deposits to the Constitutional Defense Restricted Account created in
74 Section 63C-4-103;

75 (vii) 1% of the deposits to the Geological Survey, to be used for test wells, other
76 hydrologic studies, and air quality monitoring in the West Desert; and

77 (viii) 3% of the deposits to the Permanent Community Impact Fund created in Section
78 9-4-303, to be used for grants to political subdivisions of the state to mitigate the impacts
79 resulting from the development or use of school and institutional trust lands.

80 (5) The administration shall make recommendations to the Permanent Community
81 Impact Fund Board for its consideration when awarding the grants described in Subsection
82 (4)(b)(viii).

83 Section 2. Section **67-5-29** is amended to read:

84 **67-5-29. Duty to file legal actions.**

85 (1) (a) Unless the United States substantially complies with the demands referenced in
86 2012 General Session, H.C.R. 1, Concurrent Resolution - Letter to Federal Government, the
87 attorney general shall file an action on or before October 1, 2012, in United States district court
88 to obtain a declaratory judgment to enforce the Utah Enabling Act, Section 9.

89 [(+)] (b) The attorney general may file an action in addition to the action described in

90 Subsection (1)(a) to enforce the Utah Enabling Act, Section 9.

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

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

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

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

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

100 (3) The attorney general shall file, by no later than July 1, 2011, an eminent domain
101 action or quiet title action described in Subsection (2) on property possessed by the federal
102 government for:

103 (a) a highway on Spring Creek Road located in the western half of section 3, township
104 38 south, range 12 west to provide access to section 2, township 38 south, range 12 west;

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

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

109 **Section 3. Fiscal Year 2012 Supplemental Appropriation.**

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

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

116 From General Fund Restricted - Constitutional Defense (\$1,000,000)

117 From Beginning Nonlapsing Appropriations Balances (\$1,000,000)

118 Schedule of Programs:

119 Public Lands Litigation (\$2,000,000)

120 The Legislature intends that the Division of Finance shall transfer to the Attorney

121 General - Enabling Act Litigation line item up to \$1,000,000 in unexpended, unobligated
 122 balances of the appropriation made to the Governor's Office - Public Lands Litigation by
 123 Chapter 262, Laws of Utah 2010.

124 Item 2 To Attorney General - Enabling Act Litigation
 125 From General Fund Restricted - Constitutional Defense \$1,000,000
 126 From Beginning Nonlapsing Balances - Governor's
 127 Office - Public Lands Litigation \$1,000,000

128 Schedule of Programs:
 129 Enabling Act Litigation \$2,000,000

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

132 The Legislature intends that the Division of Finance shall transfer to the Attorney
 133 General - Enabling Act Litigation line item up to \$1,000,000 in unexpended, unobligated
 134 balances of the appropriation made to the Governor's Office - Public Lands Litigation by
 135 Chapter 262, Laws of Utah 2010.

136 **Section 4. Fiscal Year 2013 Appropriation.**

137 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
 138 following sums of money are appropriated from resources not otherwise appropriated, or
 139 reduced from amounts previously appropriated, out of the funds or accounts indicated for the
 140 fiscal year beginning July 1, 2012 and ending June 30, 2013. These are additions to amounts
 141 previously appropriated for fiscal year 2013.

142 Item 1 To Governor's Office - Public Lands Litigation
 143 From General Fund Restricted - Constitutional Defense (\$1,000,000)
 144 Schedule of Programs:
 145 Public Lands Litigation (\$1,000,000)

146 Item 2 To Attorney General - Enabling Act Litigation
 147 From General Fund Restricted - Land Exchange
 148 Distribution Account \$1,000,000

149 Schedule of Programs:
 150 Enabling Act Litigation \$1,000,000

151 The Legislature intends that the appropriation of \$1,000,000 from the General Fund

152 Restricted - Land Exchange Distribution Account to the Attorney General - Enabling Act
153 Litigation line item be one-time in fiscal year 2013 in accordance with Section 53C-3-203.

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

156 Item 3 To General Fund Restricted - Constitutional Defense Restricted Account
157 From General Fund Restricted - Land Exchange
158 Distribution Account (\$1,000,000)

159 Schedule of Programs:
160 Constitutional Defense Restricted Account (\$1,000,000)

161 Section 5. **Revisor instructions.**

162 The Legislature intends that the Office of Legislative Research and General Counsel, in
163 preparing the Utah Code database for publication, replace the reference in Subsection
164 67-5-29(1)(a) from "2012 General Session, H.C.R. 1, Concurrent Resolution - Letter to Federal
165 Government" to the resolution's designated chapter number in the Laws of Utah.

Legislative Review Note
as of 1-23-12 10:54 AM

Office of Legislative Research and General Counsel