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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
 - annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee; 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, \$225,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-5-1, as last amended by Laws of Utah 2018, Chapters 200, 473, and 474

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

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

32 **67-5-1. General duties.**

33 The attorney general shall:

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

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

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

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

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

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

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

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

56 (6) exercise supervisory powers over the district and county attorneys of the state in all
57 matters pertaining to the duties of their offices, and from time to time require of them reports of

58 the condition of public business entrusted to their charge;

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

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

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

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

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

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

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

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

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

84 (13) institute and prosecute proper proceedings in any court of the state or of the
85 United States to restrain and enjoin corporations organized under the laws of this or any other

86 state or territory from acting illegally or in excess of their corporate powers or contrary to
87 public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations,
88 and wind up their affairs;

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

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

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

99 (17) pursue any appropriate legal action to implement the state's public lands policy
100 established in Section [63C-4a-103](#);

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

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

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

107 (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.
108 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility;

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

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

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

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

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

- 120 (i) settlements reached;
- 121 (ii) consent decrees entered; or
- 122 (iii) judgments issued; and

123 (b) at least 30 days before the Legislature's May and November interim meetings,
124 submit the report described in Subsection (21)(a) to:

- 125 (i) the Legislative Management Committee;
- 126 (ii) the Judiciary Interim Committee; and
- 127 (iii) the Law Enforcement and Criminal Justice Interim Committee;

128 (22) if the attorney general operates the Office of the Attorney General or any portion
129 of the Office of the Attorney General as an internal service fund agency in accordance with
130 Section 67-5-4, submit to the rate committee established in Section 67-5-34:

- 131 (a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
- 132 (b) any other information or analysis requested by the rate committee;
- 133 (23) before the end of each calendar year, create an annual performance report for the
134 Office of the Attorney General and post the report on the attorney general's website;

135 (24) ensure that any training required under this chapter complies with Title 63G,
136 Chapter 22, State Training and Certification Requirements; ~~and~~

137 (25) notify the legislative general counsel in writing within three business days after
138 the day on which the attorney general is officially notified of a claim, regardless of whether the
139 claim is filed in state or federal court, that challenges:

- 140 (a) the constitutionality of a state statute;
- 141 (b) the validity of legislation; or

142 (c) any action of the Legislature[-]; and
 143 (26) (a) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a
 144 special advisor to the Office of the Governor and the Office of the Attorney General in matters
 145 relating to Native American and tribal issues to:

- 146 (i) establish outreach to the tribes and affected counties and communities; and
- 147 (ii) foster better relations and a cooperative framework; and
- 148 (b) annually report to the Executive Offices and Criminal Justice Appropriations
 149 Subcommittee regarding:
 - 150 (i) the status of the work of the special advisor described in Subsection (26)(a); and
 - 151 (ii) whether the need remains for the ongoing appropriation to fund the special advisor
 152 described in Subsection (26)(a).

153 Section 2. **Appropriation.**

154 The following sums of money are appropriated for the fiscal year beginning July 1,
 155 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for
 156 fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
 157 Act, the Legislature appropriates the following sums of money from the funds or accounts
 158 indicated for the use and support of the government of the state of Utah.

159 ITEM 1

160 To Attorney General

161 From General Fund

\$225,000

162 Schedule of Programs:

163 Civil

\$225,000

164 The Legislature intends that the attorney general use the appropriation under this item
 165 to implement the requirement described in Subsection [67-5-1\(26\)](#).