

1 STATE SOVEREIGNTY AND RIGHTS OF SET-OFF

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: LaVar Christensen

5 Senate Sponsor: John L. Valentine

6

7 LONG TITLE

8 General Description:

9 This bill reaffirms state sovereignty and reserves all rights and claims, including set-off,
10 for damages, losses, costs, and expenses incurred but not fully reimbursed against any
11 amounts that the state owes the federal government.

12 Highlighted Provisions:

13 This bill:

14 ▶ reaffirms the state's sovereign rights as outlined in the Ninth and Tenth
15 Amendments of the Constitution of the United States of America;

16 ▶ reserves all rights of the state to claim a credit or set-off for any amount

16a ~~that is~~ **iniquitably or unlawfully caused or claimed by the federal government.** [the state
17 may incur due to the loss or wrongful withholding of its public lands or for the
18 incarceration of illegal aliens that are not reimbursed by the federal government
19 against any amount that the state is claimed to owe the federal government; and
20 ~~provides that the state is relieved of all liability for the payment of funds owed to~~
21 ~~the federal government for which the state exercises its rights of set-off.]~~ **←**

22 Money Appropriated in this Bill:

23 None

24 Other Special Clauses:

25 None

26 Utah Code Sections Affected:

27 ENACTS:



28 ~~H~~→ [~~63G-12-403~~] 63G-15-101 ~~←H~~ , Utah Code Annotated 1953

29

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

31 Section 1. ~~H~~→ [Section ~~63G-12-403~~] 63G-15-101 ~~←H~~ is enacted to read:

32 ~~H~~→ [~~63G-12-403~~:] 63G-15-101. ~~←H~~ **State sovereignty and rights of set-off.**

33 (1) (a) Pursuant to the Ninth and Tenth Amendments of the Constitution of the United
34 States of America, the State of Utah does solemnly affirm its state sovereignty and fully and
35 unconditionally reserves and asserts all rights and powers, directly and indirectly related to
36 those rights and powers.

37 (b) This affirmation, reservation, and assertion includes rights and claims of set-off by
38 the State of Utah ~~H~~→ [against] for ~~←H~~ any amounts ~~H~~→ it claims to have been inequitably
38a1 or unlawfully caused or
38a imposed by the federal government. [the state may be claimed to owe the federal government:

39 ~~—— (2) The state may exercise and apply as a credit, any amounts the state incurs due to the~~
40 ~~violation of the state's sovereign powers or other acts and omissions of the federal government,~~
41 ~~including:~~

42 ~~—— (a) all costs and damages sustained by the state due to the loss or wrongful withholding~~
43 ~~of its public lands; and~~

44 ~~—— (b) all costs of incarceration of illegal aliens for crimes committed in the state if and to~~
45 ~~such extent as those costs are not fully reimbursed by the federal government.~~

46 ~~—— (3) The state is not liable for any amounts or federal claims which are subject to this~~
47 ~~section or other legal and equitable protections of the state's interests.] ~~←H~~~~

Legislative Review Note
as of 1-24-12 2:40 PM

Office of Legislative Research and General Counsel