

**PRESUMPTION OF STATE JURISDICTION AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ken Ivory**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill affirms state sovereignty and establishes a presumption of state jurisdiction.

**Highlighted Provisions:**

This bill:

- ▶ establishes that jurisdiction over subject matters not enumerated to the federal government in the United States Constitution remains with the state of Utah;
- ▶ provides that any presumption against state jurisdiction is overcome only by a federal demonstration of specific constitutional authorization;
- ▶ places the burden on the federal government in disputes over non-enumerated jurisdiction;
- ▶ establishes a presumption that federal government has a proprietary interest over federal lands in the state; and
- ▶ requires the Federalism Commission to provide time to hear from governmental entities regarding jurisdictional disputes over federal lands.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



28 **63G-16-101**, as enacted by Laws of Utah 2012, Chapter 38

29 ENACTS:

30 **63G-16-102**, Utah Code Annotated 1953

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

33 Section 1. Section **63G-16-101** is amended to read:

34 **63G-16-101. State sovereignty and rights of set-off.**

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

39 (2) (a) The state has inherent jurisdiction and authority under the state's traditional  
40 police powers to enact legislation and regulations in subject areas affecting public welfare,  
41 safety, health, and morality, as recognized under the Tenth Amendment to the United States  
42 Constitution.

43 (b) The subject areas within the state's police powers jurisdiction described in  
44 Subsection (1) include:

- 45 (i) natural resources;
- 46 (ii) water resources and water rights;
- 47 (iii) agriculture;
- 48 (iv) education; and
- 49 (v) energy resources.

50 (3) Except as otherwise enumerated in the Constitution of the United States, as  
51 amended, jurisdiction over all subject matters is presumed to reside with the state of Utah.

52 (4) The presumption of state jurisdiction under Subsection (3) may only be overcome if  
53 the federal government demonstrates that jurisdiction over the subject matter in question is  
54 specifically enumerated to the federal government under the Constitution of the United States,  
55 as amended.

56 (5) If a conflict arises between the state and federal government over jurisdiction not  
57 enumerated under the Constitution of the United States, as amended, the burden is on the  
58 federal government to establish constitutional authorization over the subject matter.

59           (6) This affirmation, reservation, and assertion includes rights and claims of set-off by  
60 the state of Utah for any amounts it claims to have been inequitably or unlawfully caused or  
61 imposed by the federal government.

62           (7) The provisions of this section may not be interpreted to limit or restrict the state's  
63 authority to exercise rights under the Ninth, Tenth, or any other Amendment to the Constitution  
64 of the United States.

65           Section 2. Section **63G-16-102** is enacted to read:

66           **63G-16-102. Jurisdiction over federal land.**

67           (1) As used in this section:

68           (a) "Commission" means the Federalism Commission created in Section [63C-4a-302](#).

69           (b) "Concurrent jurisdiction" means jurisdiction shared jointly between the state and  
70 federal government, where both the state and federal government have the right to exercise  
71 authority concurrently over the same subject matter and within the same territory.

72           (c) "Exclusive federal jurisdiction" means sole or complete federal jurisdiction, to the  
73 exclusion of state jurisdiction, over land or an enclave ceded to the federal government by the  
74 state.

75           (d) "Federal land" means any land owned or controlled by the United States within the  
76 exterior boundaries of the state.

77           (e) "Governmental entity" means any entity, office, or officer of the state or political  
78 subdivision of the state that has responsibility for or jurisdiction over specified interests or  
79 concerns relating to federal land within the state.

80           (f) "Partial jurisdiction" means jurisdiction over a particular subject matter shared  
81 concurrently between the state and federal government, while jurisdiction remains otherwise  
82 exclusive or concurrent.

83           (g) "Proprietary interest" means the federal government retains rights only as a  
84 landowner with respect to the land, where the exercise of governmental power over the land by  
85 the state is not suspended, displaced, curtailed or otherwise subject to federal oversight.

86           (2) Federal land within the state is presumed to be under proprietary interest, allowing  
87 exercise of state authority while reserving the federal right to execute delegated constitutional  
88 functions, unless the federal government demonstrates that jurisdiction over the federal land is:

89           (a) exclusive federal jurisdiction;

90           (b) concurrent jurisdiction; or

91           (c) partial jurisdiction.

92           (3) (a) The commission shall provide time during at least one commission meeting in  
93 each year to hear from governmental entities regarding disputes over the jurisdictional split of  
94 federal land within the state.

95           (b) The commission shall notify the Legislative Management Committee of any dispute  
96 brought before the commission under Subsection (3)(a).

97           Section 3. **Effective date.**

98           This bill takes effect on May 1, 2024.