

1 **Utah Constitutional Sovereignty Act Amendments**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor: Ken Ivory

2
3 **LONG TITLE**

4 **General Description:**

5 This bill modifies provisions in the Utah Constitutional Sovereignty Act.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ defines terms;

9 ▶ expands the definition of "government officer" to include employees of public school
10 districts and institutions of higher education;

11 ▶ replaces a concurrent resolution with legislation as the format for the Legislature to
12 invoke state sovereignty under the Utah Constitutional Sovereignty Act;

13 ▶ modifies the timing for providing notice to tribal governments regarding legislative action
14 under the Utah Constitutional Sovereignty Act;

15 ▶ requires legislation under the Utah Constitutional Sovereignty Act to be accompanied by
16 a joint resolution that includes legislative findings; and

17 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **63G-16-201**, as enacted by Laws of Utah 2024, Chapter 11

25 **63G-16-202**, as enacted by Laws of Utah 2024, Chapter 11

26
27 *Be it enacted by the Legislature of the state of Utah:*

28 Section 1. Section **63G-16-201** is amended to read:

29 **63G-16-201 . Definitions.**

30 As used in this part:

- 31 (1) "Board of education" means:
- 32 (a) a local school board described in Title 53G, Chapter 4, School Districts;
- 33 (b) the State Board of Education;
- 34 (c) the State Charter School Board created under Section 53G-5-201; or
- 35 (d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.
- 36 (2) "Federal agency" means a department, agency, authority, commission, council, board,
- 37 office, bureau, or other administrative unit of the executive branch of the United States
- 38 government.
- 39 (3)(a) "Federal directive" means:
- 40 (i) a statute passed by the United States Congress;
- 41 (ii) an executive order by the president of the United States;
- 42 (iii) a rule or regulation adopted by a federal agency; or
- 43 (iv) an order or action by:
- 44 (A) a federal agency; or
- 45 (B) an employee or official appointed by the president of the United States.
- 46 (b) "Federal directive" does not include any order by the federal government calling the
- 47 Utah National Guard into the service of the United States.
- 48 (4)(a) "Government officer" means:
- 49 (i) an individual elected to a position in state or local government, when acting in the
- 50 capacity of the state or local government position;
- 51 (ii) an individual elected to a board of education, when acting in the capacity of a
- 52 member of a board of education;
- 53 (iii) an individual appointed to fill a vacancy in a position described in Subsection
- 54 (4)(a)(i) or (ii), when acting in the capacity of the position; [or]
- 55 (iv) an individual appointed to or employed in a full-time position by state
- 56 government, local government, or a board of education, when acting in the
- 57 capacity of the individual's appointment or employment[-] ; or
- 58 (v) an individual employed by:
- 59 (A) an institution of higher education described in Section 53B-2-101; or
- 60 (B) a school district as defined in Section 53G-11-501.
- 61 (b) "Government officer" does not include a member or employee of the legislative
- 62 branch of state government.

63 ~~{(5)}~~ ~~§~~ → ["Legislative staff office" means the Office of Legislative Research and
 63a General Counsel.] ← §

64 [(5)]~~[(6)]~~ (5) "Local government" means:

- 65 (a) a county, city, town, or metro township;
- 66 (b) a special district governed by Title 17B, Limited Purpose Local Government Entities
67 - Special Districts;
- 68 (c) a special service district governed by Title 17D, Chapter 1, Special Service District
69 Act;
- 70 (d) a community reinvestment agency governed by Title 17C, Limited Purpose Local
71 Government Entities - Community Reinvestment Agency Act;
- 72 (e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;
- 73 (f) a redevelopment agency; or
- 74 (g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter
75 13, Interlocal Cooperation Act.

76 Section 2. Section **63G-16-202** is amended to read:

77 **63G-16-202 . Legislation invoking state sovereignty -- Requirements-- Relation to**
78 **other law.**

- 79 (1) The Legislature may, [~~by concurrent resolution, prohibit~~] in accordance with
80 Subsections (2) through (6), request and consider legislation that prohibits a government
81 officer from enforcing or assisting in the enforcement of a federal directive within the
82 state if the Legislature determines the federal directive violates the principles of state
83 sovereignty [~~in accordance with Subsection (2)~~].
- 84 (2) [A] For purposes of this section, a federal directive violates the principles of state
85 sovereignty if the federal directive restricts or infringes upon:
- 86 (a) a power or a right reserved to the state by the Tenth Amendment to the United States
87 Constitution; or
- 88 (b) the state's rights or interests to provide for the health, safety, and welfare and
89 promote the prosperity of the state's inhabitants.
- 90 (3) [~~A request for a concurrent resolution under Subsection (1) may not be filed~~] The Office
91 of Legislative Research and General Counsel may not open a request for legislation
92 described in Subsection (1) unless:
- 93 (a) the request is approved by the speaker of the House of Representatives and the
94 president of the Senate; or
- 95 (b) while the Legislature is convened and conducting business on the floor, identical
96 motions to approve the request are made in each chamber of the Legislature and both
97 motions are approved by a two-thirds majority of the members present in each

98 chamber.

99 (4) The Legislature shall consult with and consider any recommendations provided by the
100 attorney general concerning the potential impact that ~~[a concurrent resolution]~~ legislation
101 under Subsection (1) may have on current or anticipated litigation.

102 (5) Upon the ~~[filing of a request for a concurrent resolution under]~~ numbering of legislation
103 described in Subsection (1), the Legislature shall provide notice of the ~~[concurrent~~
104 ~~resolution, including the short title and proposed objectives,]~~ legislation to the
105 representatives of tribal governments listed in Subsection 9-9-104.5(2)(b).

106 (6)(a) Legislation under Subsection (1) shall be accompanied by a joint resolution.

107 (b) ~~[A concurrent resolution under Subsection (1)]~~ The joint resolution shall:

108 ~~[(a)]~~ (i) identify the federal directive the Legislature has determined violates the
109 principles of state sovereignty ~~[under Subsection (2)]~~ in accordance with
110 Subsection (2); and

111 ~~[(b)]~~ (ii) include the information or findings upon which the Legislature has made the
112 determination in Subsection ~~[(6)(a);]~~ (6)(b)(i).

113 ~~[(c)]~~ specify the government officers to which the concurrent resolution applies;

114 ~~[(d)]~~ explain the effect that the concurrent resolution will have on the applicability of the
115 federal directive within the state, including a description of any activities or forms of
116 assistance that a government officer specified in Subsection (6)(c) is prohibited from
117 conducting in connection with the enforcement of the federal directive; and]

118 ~~[(e)]~~ describe any other requirements for a government officer specified in Subsection
119 (6)(c) to comply with the concurrent resolution.]

120 ~~[(7) A concurrent resolution under Subsection (1):]~~

121 ~~[(a) takes effect upon adoption and has the force of law; and]~~

122 ~~[(b) after taking effect, may only be terminated by concurrent resolution.]~~

123 ~~[(8) The requirements for filing a request for a concurrent resolution in Subsection (3)~~
124 ~~apply to a concurrent resolution described in Subsection (7)(b).]~~

125 ~~[(9)]~~ (7) The inaction of the Legislature in determining that a federal directive violates the
126 principles of state sovereignty~~[by concurrent resolution]~~ through legislation under this
127 section:

128 (a) does not imply or create a presumption that the federal directive is lawful under the
129 United States Constitution; and

130 (b) has no effect on the attorney general's authority to pursue any appropriate legal
131 action to challenge the federal directive on the basis of state sovereignty.

132 [~~(10)~~] (8) This section supersedes any conflicting provisions of Utah law.

133 Section 3. **Effective Date.**

134 This bill takes effect on May 7, 2025.