

Federalism Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: Keven J. Stratton

Cosponsor: Logan J. Monson Stephen L. Whyte

Kay J. Christofferson Nicholeen P. Peck

Colin W. Jack Jason E. Thompson

LONG TITLE

General Description:

This bill modifies provisions related to federalism.

Highlighted Provisions:

This bill:

- defines terms;
- expands the membership of the Federalism Commission (commission) and modifies the manner in which members are appointed;
- increases the number of committee bill files the commission is permitted to open each year;
- requires the Center for Constitutional Studies (center) at Utah Valley University, in consultation with the commission, to:
 - develop a continuing education and training program for state and local government employees regarding federalism issues;
 - organize an annual federalism conference and study the creation of a state-led national federalism organization;
 - coordinate with private sector actors to conduct out-of-state outreach; and
 - establish informal working groups as necessary and report to the commission;
- requires the Herbert Institute (institute) at Utah Valley University, in consultation with the commission, to:
 - serve as a liaison between the commission, the center, and government entities on

federalism issues; and

- conduct outreach and coordination to support the commission's federalism efforts; and
- coordinate with private organizations on local and national outreach efforts and report to the commission;

▸ requires the commission to:

- make recommendations to the center and to the institute regarding the entities' federalism-related duties; and

- report annually to the Legislative Management Committee regarding the entities' progress;

▸ requires executive branch agencies to designate a contact person to coordinate with the commission regarding education and training; and

▸ makes technical corrections.

Money Appropriated in this Bill:

This bill appropriates \$910,000 in operating and capital budgets for fiscal year 2026, all of which is from the Income Tax Fund.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63C-4a-102, as last amended by Laws of Utah 2021, Chapter 64

63C-4a-302, as last amended by Laws of Utah 2024, Chapter 410

63C-4a-303, as last amended by Laws of Utah 2024, Chapter 190

ENACTS:

53B-29-401, Utah Code Annotated 1953

53B-29-402, Utah Code Annotated 1953

53B-29-403, Utah Code Annotated 1953

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

Section 1. Section **53B-29-401** is enacted to read:

Part 4. Federalism

53B-29-401 . Definitions.

As used in this part:

(1) "Center" means the Center for Constitutional Studies at Utah Valley University.

(2) "Commission" means the Federalism Commission created in Section 63C-4a-302.

(3) "Institute" means the Gary R. Herbert Institute for Public Policy at Utah Valley University.

Section 2. Section **53B-29-402** is enacted to read:

53B-29-402 . Federalism-related duties of Center for Constitutional Studies.

In consultation with the commission and subject to appropriations by the Legislature, the center shall:

- (1) develop a nonpartisan continuing education and training program for state and local government employees on:
 - (a) the principles of federalism;
 - (b) the sovereignty, supremacy, and general jurisdiction of the individual states, including the breadth and extent of state police power jurisdiction;
 - (c) the history and practical implementation of the Ninth, Tenth, and Fourteenth Amendments to the United States Constitution;
 - (d) the limited jurisdiction and powers of the federal government as proscribed by the United States Constitution, as amended;
 - (e) methods of evaluating federal jurisdiction, law, or action in the context of the principles of federalism;
 - (f) the duty, jurisdiction, and powers of the state to restore or maintain the constitutionally balanced state and federal governing roles and responsibilities; and
 - (g) other education or training components related to federalism as recommended by the commission;
- (2) organize an annual conference for state representatives and leaders whose primary purpose is to facilitate nonpartisan discussion and coordination amongst states with respect to federalism issues;
- (3) study and advise the commission in regards to the creation of a state-led national organization focused on strengthening federalism and improving intergovernmental relations, including the makeup, duties, and functions of such organization;
- (4) coordinate with private sector actors who agree to conduct out-of-state outreach to build national support for the commission's federalism efforts;
- (5) establish informal working groups consisting of public and private stakeholders as is appropriate to assist the center in fulfilling the requirements of this section; and
- (6) report to the commission as requested regarding the center's progress in fulfilling the requirements of this section.

Section 3. Section **53B-29-403** is enacted to read:

53B-29-403 . Federalism-related duties of Herbert Institute.

In consultation with the commission and subject to appropriations by the Legislature, the institute shall:

- (1) serve as a liaison between the commission and the center with respect to federalism issues;
- (2) conduct outreach and coordination with public and private sector entities to support the commission's federalism efforts;
- (3) coordinate with private sector actors who agree to conduct out-of-state outreach to build national support for the commission's federalism efforts; and
- (4) report to the commission as requested regarding the institute's progress in fulfilling the requirements of this section.

Section 4. Section **63C-4a-102** is amended to read:

63C-4a-102 . Definitions.

As used in this chapter:

- (1) "Account" means the Constitutional Defense Restricted Account, created in Section 63C-4a-402.
- (2) "Center" means the Center for Constitutional Studies at Utah Valley University.
- ~~[(2)]~~ (3) "Commission" means the Federalism Commission, created in Section 63C-4a-302.
- ~~[(3)]~~ (4) "Constitutional defense plan" means a plan that outlines actions and expenditures to fulfill the duties of the commission and the council.
- ~~[(4)]~~ (5) "Council" means the Constitutional Defense Council, created in Section 63C-4a-202.
- ~~[(5)]~~ (6) "Federal governmental entity" means:
 - (a) the president of the United States;
 - (b) the United States Congress;
 - (c) a United States agency; or
 - (d) an employee or official appointed by the president of the United States.
- ~~[(6)]~~ (7) "Federal issue" means a matter relating to the federal government's dealings with the state.
- ~~[(7)]~~ (8) "Federal law" means:
 - (a) an executive order by the president of the United States;
 - (b) a statute passed by the United States Congress;
 - (c) a regulation adopted by a United States agency; or
 - (d) a policy statement, order, guidance, or action by:
 - (i) a United States agency; or

- (ii) an employee or official appointed by the president of the United States.
- (9) "Institute" means the Gary R. Herbert Institute for Public Policy at Utah Valley University.
- [(8)] (10) "R.S. 2477" means Revised Statute 2477, codified as 43 U.S.C. Section 932.
- [(9)] (11) "R.S. 2477 plan" means a guiding document that:
- (a) is developed jointly by the Utah Association of Counties and the state;
 - (b) is approved by the council; and
 - (c) presents the broad framework of a proposed working relationship between the state and participating counties collectively for the purpose of asserting, defending, or litigating state and local government rights under R.S. 2477.
- [(10)] (12) "United States agency" means a department, agency, authority, commission, council, board, office, bureau, or other administrative unit of the executive branch of the United States government.
- Section 5. Section **63C-4a-302** is amended to read:
- 63C-4a-302 . Creation of Federalism Commission -- Membership -- Meetings -- Staff -- Expenses.**
- (1)(a) There is created the Federalism Commission, comprised of the following ~~[nine]~~ 14 voting members:
- ~~[(i) the president of the Senate or the president of the Senate's designee who shall serve as cochair of the commission;]~~
 - ~~[(ii) two other members of the Senate, appointed by the president of the Senate;]~~
 - ~~[(iii) the speaker of the House or the speaker of the House's designee who shall serve as cochair of the commission;]~~
 - ~~[(iv) three other members of the House, appointed by the speaker of the House;]~~
 - ~~[(v) the minority leader of the Senate or the minority leader of the Senate's designee; and]~~
 - ~~[(vi) the minority leader of the House or the minority leader of the House's designee.]~~
 - (i) five members of the Senate appointed by the president of the Senate, comprised of four members from the majority party and one member from the minority party; and
 - (ii) nine members of the House of Representatives appointed by the Speaker of the House of Representatives, comprised of seven members from the majority party and two members from the minority party.
- (b)(i) Subject to the provisions of this Subsection (1)(b), the Legislative Management

Committee may appoint nonvoting members to the commission from a list of individuals recommended by the cochaIRS of the commission.

(ii) If the Legislative Management Committee chooses to not appoint an individual on the list described in Subsection (1)(b)(i), the Legislative Management Committee may ask the cochaIRS of the commission to submit an additional list of recommendations.

(iii) The Legislative Management Committee may not appoint an individual who is not recommended by the cochaIRS of the commission.

(iv) The nonvoting members appointed by the Legislative Management Committee under this Subsection (1)(b) shall be appointed or reappointed for a two-year term.

(v) When a vacancy of a nonvoting member occurs for any reason, the Legislative Management Committee, in consultation with the cochaIRS of the commission, shall appoint a replacement for the unexpired term.

(2)(a) A majority of the voting members of the commission constitute a quorum of the commission.

(b) Action by a majority of the members of a quorum constitutes action by the commission.

(3) The commission may meet up to nine times each year, unless additional meetings are approved by the Legislative Management Committee.

(4) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

(5) Compensation and expenses of a member of the commission who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) Nothing in this section prohibits the commission from closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the commission from complying with Title 63G, Chapter 2, Government Records Access and Management Act.

(7) The commission may, in the commission's discretion, elect to succeed to the position of any of the following under a contract that any of the following are party to, subject to applicable contractual provisions:

(a) the Commission on Federalism;

(b) the Commission for the Stewardship of Public Lands; and

(c) the Federal Funds Commission.

(8) The commission may:

(a) open up to two committee bill files per calendar year relating to the commission's statutory duties, including the committee bill file described in Subsection 63L-10-103(6); and

(b) provide assistance to an interim committee regarding a committee bill file opened by the interim committee that relates to the commission's duties.

Section 6. Section **63C-4a-303** is amended to read:

63C-4a-303 . Federalism Commission to evaluate federal law -- Curriculum on federalism -- Environment discussions -- Oversight of Center for Constitutional Studies in relation to center's federalism duties.

(1)(a) In accordance with Section 63C-4a-304, the commission may evaluate a federal law:

(i) as agreed by a majority of the commission;

(ii) submitted to the commission by a council member; or

(iii) reported to the commission in accordance with Subsection (1)(b).

(b)(i) To assist the commission in the evaluation of federal law as required in this section and Section 63C-4a-304, the commission may contract with a third party that is a Utah institution of higher education to monitor federal law for possible implications on the principles of federalism.

(ii) A third party contracted to monitor federal law as described in Subsection (1)(b)(i) shall:

(A) monitor federal law for possible implications on the principles of federalism and state sovereignty; and

(B) report to the commission any law or action by the federal government that may implicate the principles of federalism or state sovereignty.

(c)(i) As used in this Subsection (1)(c), "interim committee" means the same as that term is defined in Section 36-12-1.

(ii) The commission shall provide an annual report to each interim committee concerning any law or action by the federal government that implicates the principles of federalism or state sovereignty.

(iii) The commission may notify the appropriate interim committee of any law or action by the federal government that implicates the principles of federalism or state sovereignty.

(2) The commission may request information regarding a federal law under evaluation from a United States senator or representative elected from the state.

- (3) If the commission finds that a federal law is not authorized by the United States Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a commission cochair or the commission may:
- (a) request from a United States senator or representative elected from the state:
 - (i) information about the federal law; or
 - (ii) assistance in communicating with a federal governmental entity regarding the federal law;
 - (b)(i) give written notice of an evaluation made under Subsection (1) to the federal governmental entity responsible for adopting or administering the federal law; and
 - (ii) request a response by a specific date to the evaluation from the federal governmental entity;
 - (c) request a meeting, conducted in person or by electronic means, with the federal governmental entity, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy; or
 - (d) give written notice of an evaluation and the conclusions of the commission to any other relevant entity.
- (4) The commission may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the commission's evaluation of a federal law.
- (5) A commission cochair may coordinate the evaluation of and response to federal law with another state as provided in Section 63C-4a-305.
- (6) The commission shall keep a current list on the Legislature's website of:
- (a) a federal law that the commission evaluates under Subsection (1);
 - (b) an action taken by a cochair of the commission or the commission under Subsection (3);
 - (c) any coordination undertaken with another state under Section 63C-4a-305; and
 - (d) any response received from a federal government entity that was requested under Subsection (3).
- (7)(a) The commission shall develop curriculum for a seminar on the principles of federalism.
- (b) The curriculum under Subsection (7)(a) shall be available to the general public and include:
- (i) fundamental principles of federalism;

- 262 (ii) the sovereignty, supremacy, and jurisdiction of the individual states, including
263 their police powers;
- 264 (iii) the history and practical implementation of the Tenth Amendment to the United
265 States Constitution;
- 266 (iv) the authority and limits on the authority of the federal government as found in the
267 United States Constitution;
- 268 (v) the relationship between the state and federal governments;
- 269 (vi) methods of evaluating a federal law in the context of the principles of federalism;
- 270 (vii) how and when challenges should be made to a federal law or regulation on the
271 basis of federalism;
- 272 (viii) the separate and independent powers of the state that serve as a check on the
273 federal government;
- 274 (ix) first amendment rights and freedoms contained therein; and
- 275 (x) any other issues relating to federalism the commission considers necessary.
- 276 (8) The commission may apply for and receive grants, and receive private donations to
277 assist in funding the creation, enhancement, and dissemination of the curriculum.
- 278 (9) The commission shall submit a report on or before November 30 of each year to the
279 Government Operations Interim Committee and the Natural Resources, Agriculture, and
280 Environment Interim Committee that:
- 281 (a) describes any action taken by the commission under Section 63C-4a-303; and
- 282 (b) includes any proposed legislation the commission recommends.
- 283 (10) The commission shall comply with Section 19-1-110 in discussions with the
284 Department of Environmental Quality on issues related to the environment or the
285 functioning of the Department of Environmental Quality.
- 286 (11) The commission shall:
- 287 (a) coordinate with and make recommendations to the center concerning the center's
288 federalism-related duties under Section 53B-29-402, including:
- 289 (i) the development of the federalism education and training program under
290 Subsection 53B-29-402(1); and
- 291 (ii) the scope and objectives of:
- 292 (A) the annual federalism conference organized under Subsection 53B-29-402(2);
- 293 (B) the study conducted under Subsection 53B-29-402(3); and
- 294 (C) the center's coordination efforts under Subsection 53B-29-402(4);
- 295 (b) coordinate with and make recommendations to the institute regarding the institute's

- 296 federalism-related duties under Section 53B-29-403; and
 297 (c) report annually to the Legislative Management Committee regarding:
 298 (i) the center's progress in fulfilling the requirements of Section 53B-29-402; and
 299 (ii) the institute's progress in fulfilling the requirements of Section 53B-29-403.
 300 (12) Each executive branch agency shall, at the request of the commission, designate a
 301 contact person to coordinate with the commission regarding the federalism education
 302 and training program developed under Section 53B-29-402 for purposes of:
 303 (a) determining the extent of federal jurisdiction in the agency's resource sphere;
 304 (b) determining whether federal action exceeds the federal government's jurisdictional
 305 authority;
 306 (c) assessing what actions the agency may take in the event that federal action exceeds
 307 the federal government's jurisdictional authority; and
 308 (d) assessing how actions described in Subsection (12)(c) may better enable the agency
 309 to use the agency's best judgment in serving the people of Utah.

310 Section 7. **FY 2026 Appropriations.**

311 The following sums of money are appropriated for the fiscal year beginning July 1,
 312 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for
 313 fiscal year 2026.

314 Subsection 7(a). **Operating and Capital Budgets**

315 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
 316 Legislature appropriates the following sums of money from the funds or accounts indicated for
 317 the use and support of the government of the state of Utah.

318 ITEM 1 To Utah Valley University - Education and General

319 From Income Tax Fund 560,000

320 From Income Tax Fund, One-time 350,000

321 Schedule of Programs:

322 Public Service 910,000

323 The Legislature intends that the Center for
 324 Constitutional Studies at Utah Valley University use
 325 \$500,000 of the ongoing appropriation provided under
 326 this item and the \$350,000 one-time appropriation
 327 provided under this item to fulfill the requirements of
 328 Utah Code Annotated Section 53B-29-402.

329 The Legislature further intends that the Herbert

330 Institute at Utah Valley University use \$60,000 of the
331 ongoing appropriation provided under this item to fulfill
332 the requirements of Utah Code Annotated Section
333 53B-29-403.

334 Section 8. **Effective Date.**

335 This bill takes effect on May 7, 2025.