

Utah Constitutional Sovereignty Act Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor: Ken Ivory

LONG TITLE

General Description:

This bill modifies provisions in the Utah Constitutional Sovereignty Act.

Highlighted Provisions:

This bill:

- expands the definition of "government officer" under the Utah Constitutional Sovereignty Act (Sovereignty Act) to include employees of public school districts and institutions of higher education;

- replaces a concurrent resolution with legislation as the format for legislative action under the Sovereignty Act;

- modifies the time at which notice is provided to tribal governments regarding legislative action;

- addresses requirements for amending or repealing legislation passed under the Sovereignty Act; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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) "Local government" means:

64 (a) a county, city, town, or metro township;

65 (b) a special district governed by Title 17B, Limited Purpose Local Government Entities
66 - Special Districts;

67 (c) a special service district governed by Title 17D, Chapter 1, Special Service District
68 Act;

69 (d) a community reinvestment agency governed by Title 17C, Limited Purpose Local
70 Government Entities - Community Reinvestment Agency Act;

71 (e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

72 (f) a redevelopment agency; or

73 (g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter
74 13, Interlocal Cooperation Act.

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

76 **63G-16-202 . Legislation invoking state sovereignty -- Requirements --**

77 **Amendment or repeal -- Effect of inaction -- Relation to other law.**

78 (1) The Legislature may, by [~~concurrent resolution~~] passing legislation in accordance with
79 this section, prohibit a government officer from enforcing or assisting in the
80 enforcement of a federal directive within the state if the Legislature determines the
81 federal directive violates the principles of state sovereignty [~~in accordance with~~
82 ~~Subsection (2)~~].

83 (2) [A] For purposes of this section, a federal directive violates the principles of state
84 sovereignty if the federal directive restricts or infringes upon:

85 (a) a power or a right reserved to the state by the Tenth Amendment to the United States
86 Constitution; or

87 (b) the state's rights or interests to provide for the health, safety, and welfare and
88 promote the prosperity of the state's inhabitants.

89 (3) [~~A request for a concurrent resolution under Subsection (1) may not be filed~~] The Office
90 of Legislative Research and General Counsel may not open a request for legislation
91 under this section unless:

92 (a) the request is approved by the speaker of the House of Representatives and the
93 president of the Senate; or

94 (b) while the Legislature is convened and conducting business on the floor, identical
95 motions to approve the request are made in each chamber of the Legislature and both

- 96 motions are approved by a two-thirds majority of the members present in each
97 chamber.
- 98 (4) The Legislature shall consult with and consider any recommendations provided by the
99 attorney general concerning the potential impact that [~~a concurrent resolution~~] legislation
100 under Subsection (1) may have on current or anticipated litigation.
- 101 (5) Upon the [~~filing of a request for a concurrent resolution~~] numbering of legislation under
102 Subsection (1), the Legislature shall provide notice of the [~~concurrent resolution,~~
103 ~~including the short title and proposed objectives,~~] legislation to the representatives of
104 tribal governments listed in Subsection 9-9-104.5(2)(b).
- 105 (6) [~~A concurrent resolution~~] Legislation under Subsection (1) shall:
- 106 (a) identify the federal directive the Legislature has determined violates the principles of
107 state sovereignty [~~under~~] in accordance with Subsection (2);
- 108 (b) include the information or findings upon which the Legislature has made the
109 determination in Subsection (6)(a);
- 110 (c) specify the government officers to which the [~~concurrent resolution~~] legislation
111 applies;
- 112 (d) explain the effect that the [~~concurrent resolution~~] legislation will have on the
113 applicability of the federal directive within the state, including a description of any
114 activities or forms of assistance that a government officer specified in Subsection
115 (6)(c) is prohibited from conducting in connection with the enforcement of the
116 federal directive; and
- 117 (e) describe any other requirements for a government officer specified in Subsection
118 (6)(c) to comply with the [~~concurrent resolution~~] legislation.
- 119 [~~(7) A concurrent resolution under Subsection (1):~~]
120 [~~(a) takes effect upon adoption and has the force of law; and~~]
121 [~~(b) after taking effect, may only be terminated by concurrent resolution.~~]
- 122 [~~(8) The requirements for filing a request for a concurrent resolution in Subsection (3)~~
123 ~~apply to a concurrent resolution described in Subsection (7)(b).~~]
- 124 (7) After legislation under Subsection (1) is passed, the legislation may be amended or
125 repealed only by legislation opened in accordance with Subsection (3).
- 126 [~~(9)~~] (8) The inaction of the Legislature in determining that a federal directive violates the
127 principles of state sovereignty by [~~concurrent resolution~~] passing legislation under this
128 section:
- 129 (a) does not imply or create a presumption that the federal directive is lawful under the

130 United States Constitution; and
131 (b) has no effect on the attorney general's authority to pursue any appropriate legal
132 action to challenge the federal directive on the basis of state sovereignty.
133 [~~(10)~~] (9) This section supersedes any conflicting provisions of Utah law.
134 Section 3. **Effective Date.**
135 This bill takes effect on May 7, 2025.