

SB0265S01 compared with SB0265

~~{Omitted text}~~ shows text that was in SB0265 but was omitted in SB0265S01

inserted text shows text that was not in SB0265 but was inserted into SB0265S01

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1 Utah Constitutional Sovereignty Act Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor: Ken Ivory

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- 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" under the Utah Constitutional Sovereignty Act (Sovereignty Act) to include employees of public school districts and institutions of higher education;
- 11 ▶ replaces a concurrent resolution with legislation as the format for ~~{ the Legislature to invoke state sovereignty }~~ legislative action under the ~~{ Utah Constitutional }~~ Sovereignty Act;
- 13 ▶ modifies the ~~{ timing for providing }~~ time at which notice is provided to tribal governments regarding legislative action ~~{ under the Utah Constitutional Sovereignty Act }~~ ;
- 15 ▶ ~~{ requires }~~ addresses requirements for amending or repealing legislation passed under the ~~{ Utah Constitutional }~~ Sovereignty Act ~~{ to be accompanied by a joint resolution that includes legislative findings }~~ ; and
- 17 ▶ makes technical and conforming changes.

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18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

23 AMENDS:

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

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

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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.**

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, office,
bureau, or other administrative unit of the executive branch of the United States 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 Utah National
Guard into the service of the United States.

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- 48 (4)
- (a) "Government officer" means:
- 49 (i) an individual elected to a position in state or local government, when acting in the 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 member of a
board of education;
- 53 (iii) an individual appointed to fill a vacancy in a position described in Subsection (4)(a)(i) or (ii),
when acting in the capacity of the position; ~~[{f} or]~~
- 55 (iv) an individual appointed to or employed in a full-time position by state government,
local government, or a board of education, when acting in the 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 branch of state
government.
- 63 { ~~§~~ → {} {f} (5) "Legislative staff office" means the Office of Legislative Research and General
Counsel. {f} {} { ←§ }
- 64 {f(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 - Special
Districts;
- 68 (c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;
- 70 (d) a community reinvestment agency governed by Title 17C, Limited Purpose Local 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 13, Interlocal
Cooperation Act.

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

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63G-16-202. Legislation invoking state sovereignty -- Requirements-- Amendment or repeal -- Effect of inaction -- Relation to other law.

- 79 (1) The Legislature may, ~~{by }~~[concurrent resolution] passing legislation in accordance with this
section~~{, prohibit{}}~~ in accordance with Subsections (2) through (6), request and consider
legislation that prohibits a government officer from enforcing or assisting in the enforcement of
a federal directive within the state if the Legislature determines the federal directive violates the
principles of state sovereignty~~[in accordance with Subsection (2)]~~.
- 84 (2) [A] For purposes of this section, a federal directive violates the principles of state 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 Constitution;
or
- 88 (b) the state's rights or interests to provide for the health, safety, and welfare and 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 of
Legislative Research and General Counsel may not open a request for legislation { described in
Subsection (1) } under this section unless:
- 93 (a) the request is approved by the speaker of the House of Representatives and the president of the
Senate; or
- 95 (b) while the Legislature is convened and conducting business on the floor, identical motions to approve
the request are made in each chamber of the Legislature and both motions are approved by a two-
thirds majority of the members present in each chamber.
- 99 (4) The Legislature shall consult with and consider any recommendations provided by the attorney
general concerning the potential impact that ~~[a concurrent resolution]~~ legislation under Subsection
(1) may have on current or anticipated litigation.
- 102 (5) Upon the ~~[filing of a request for a concurrent resolution]~~ numbering of legislation~~{ under{}}~~
numbering of legislation described in Subsection (1), the Legislature shall provide notice of
the ~~[concurrent resolution, including the short title and proposed objectives,]~~ legislation to the
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]~~ Legislation~~{ under Subsection (1){}}~~ The joint resolution shall:

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- 108 ~~{(a){}}~~ ~~{(i)}~~ identify the federal directive the Legislature has determined violates the principles of state sovereignty ~~[under]~~ in accordance with ~~{ Subsection (2){}}~~ in accordance with Subsection (2)};
- 108 (b) ~~{-and}~~
- 111 ~~{(b)}{(ii)}~~ include the information or findings upon which the Legislature has made the determination in Subsection ~~{{(6)(a);{}}~~ (6)(b)(i).
- 113 ~~{(c) specify the government officers to which the }~~[concurrent resolution] legislation~~{ applies;}}~~
- 114 ~~{(d) explain the effect that the }~~[concurrent resolution] legislation~~{ will have on the applicability of the federal directive within the state, including a description of any activities or forms of assistance that a government officer specified in Subsection (6)(c) is prohibited from conducting in connection with the enforcement of the federal directive; and}}~~
- 118 ~~{(e) describe any other requirements for a government officer specified in Subsection (6)(c) to comply with the }~~[concurrent resolution] legislation~~{.}}~~
- 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) 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 repealed only by legislation opened in accordance with Subsection (3).
- 125 [(9)] ~~{(7)}~~ (8) The inaction of the Legislature in determining that a federal directive violates the principles of state sovereignty ~~{f by }~~[concurrent resolution] ~~{through}~~ passing legislation under this section:
- 128 (a) does not imply or create a presumption that the federal directive is lawful under the United States Constitution; and
- 130 (b) has no effect on the attorney general's authority to pursue any appropriate legal action to challenge the federal directive on the basis of state sovereignty.
- 132 [(10)] ~~{(8)}~~ (9) This section supersedes any conflicting provisions of Utah law.
- 134 Section 3. **Effective date.**
This bill takes effect on May 7, 2025.

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