

1 **Presumption of State Jurisdiction Amendments**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: Keven J. Stratton

2
3 **LONG TITLE**

4 **General Description:**

5 This bill addresses state sovereignty and establishes a presumption of state jurisdiction.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ defines terms;

9 ▶ establishes the principles of state sovereignty, including the presumption that jurisdiction
10 over subject matters not enumerated to the federal government in the United States
11 Constitution remains with the state;

12 ▶ provides that any presumption against state jurisdiction may be overcome only by federal
13 demonstration of specific constitutional authorization;

14 ▶ places the burden on the federal government in jurisdictional conflicts between the state
15 and federal government;

16 ▶ requires the Federalism Commission to coordinate with federal agencies and state entities
17 to help to resolve jurisdictional conflicts; and

18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **63G-16-101**, as enacted by Laws of Utah 2012, Chapter 38

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

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

29 **63G-16-101 . Principles of state sovereignty -- Presumption of state subject**
30 **matter jurisdiction -- Resolution of jurisdictional conflicts.**

- 31 (1) As used in this section:
- 32 (a) "Commission" means the Federalism Commission created in Section 63C-4a-302.
- 33 (b) "State entity" means:
- 34 (i) any department, agency, board, commission, or other instrumentality of the state;
- 35 or
- 36 (ii) a political subdivision of the state.
- 37 ~~[(1)]~~ (2) Pursuant to the Ninth and Tenth Amendments of the [Constitution of the United
- 38 States of America, the state of Utah does solemnly affirm its state] United States
- 39 Constitution, Utah solemnly affirms the state's sovereignty and fully and unconditionally
- 40 reserves and asserts all rights and powers, directly and indirectly related to those rights
- 41 and powers.
- 42 ~~[(2)]~~ (3) [This] The affirmation, reservation, and assertion of state sovereignty under
- 43 Subsection (2) includes rights and claims of set-off by the state [of Utah] for any
- 44 amounts [it] the state claims to have been inequitably or unlawfully caused or imposed
- 45 by the federal government.
- 46 (4) The federal government is a government of limited jurisdiction and power.
- 47 (5)(a) The state has general governing authority under the state's inherent police power
- 48 jurisdiction over all governing matters within the state affecting public welfare,
- 49 safety, health, and morality, as recognized under the Tenth Amendment to the United
- 50 States Constitution.
- 51 (b) The subject areas within the state's police powers jurisdiction under Subsection (5)(a)
- 52 include, without limitation:
- 53 (i) natural resources;
- 54 (ii) water resources and water rights;
- 55 (iii) agriculture;
- 56 (iv) education; and
- 57 (v) energy resources.
- 58 (6) The federalism canon, as prescribed by the United States Supreme Court, requires
- 59 courts to presume that federal law does not preempt state law because of the sovereignty
- 60 the states enjoy under the United States Constitution, as amended.
- 61 (7) The balance of governing jurisdiction and power protects the diversity of the states and
- 62 ensures the self-governing voice of the people.
- 63 (8)(a) Jurisdiction over all governing subject matters arising within the state is presumed
- 64 to reside with the state except as otherwise enumerated in the United States

65 Constitution, as amended.

66 (b) The presumption of state jurisdiction under this Subsection (8) may only be
67 overcome if the federal government demonstrates that jurisdiction over the subject
68 matter in question is specifically enumerated to the federal government under the
69 United States Constitution, as amended.

70 (c) If a conflict arises whereby the federal government asserts jurisdiction over subject
71 matters not enumerated under the United States Constitution, as amended, the federal
72 government bears the burden of establishing federal jurisdiction over the subject
73 matter through coordination with the state in accordance with Subsection (9).

74 (9) Under the direction of the president of the Senate and the speaker of the House of
75 Representatives, the commission shall engage in coordination with federal agencies and
76 state entities regarding a jurisdictional conflict described in Subsection (8)(c) and
77 endeavor to facilitate a resolution of the jurisdictional conflict.

78 **Section 2. Effective Date.**

79 This bill takes effect on May 7, 2025.