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**Utah Constitutional Sovereignty Act Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott D. Sandall**

House Sponsor:

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**LONG TITLE**

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**General Description:**

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This bill modifies provisions in the Utah Constitutional Sovereignty Act.

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**Highlighted Provisions:**

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This bill:

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▸ defines terms;

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▸ expands the definition of "government officer" to include employees of public school

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districts and institutions of higher education;

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▸ replaces a concurrent resolution with legislation as the format for the Legislature to

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invoke state sovereignty under the Utah Constitutional Sovereignty Act;

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▸ modifies the timing for providing notice to tribal governments regarding legislative action

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under the Utah Constitutional Sovereignty Act;

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▸ requires legislation under the Utah Constitutional Sovereignty Act to be accompanied by

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a joint resolution that includes legislative findings; and

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▸ makes technical and conforming changes.

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**Money Appropriated in this Bill:**

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None

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**Other Special Clauses:**

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None

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**Utah Code Sections Affected:**

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AMENDS:

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

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

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

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

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

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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 General Counsel.
- 64 ~~[(5)]~~ (6) "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.