

**Effective 1/31/2024**

**Part 2**  
**Utah Constitutional Sovereignty Act**

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

As used in this part:

- (1) "Board of education" means:
  - (a) a local school board described in Title 53G, Chapter 4, School Districts;
  - (b) the State Board of Education;
  - (c) the State Charter School Board created under Section 53G-5-201; or
  - (d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.
- (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.
- (3)
  - (a) "Federal directive" means:
    - (i) a statute passed by the United States Congress;
    - (ii) an executive order by the president of the United States;
    - (iii) a rule or regulation adopted by a federal agency; or
    - (iv) an order or action by:
      - (A) a federal agency; or
      - (B) an employee or official appointed by the president of the United States.
  - (b) "Federal directive" does not include any order by the federal government calling the Utah National Guard into the service of the United States.
- (4)
  - (a) "Government officer" means:
    - (i) an individual elected to a position in state or local government, when acting in the capacity of the state or local government position;
    - (ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;
    - (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;
    - (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
    - (v) an individual employed by:
      - (A) an institution of higher education listed in Section 53H-1-102; or
      - (B) a school district as defined in Section 53G-11-501.
  - (b) "Government officer" does not include a member or employee of the legislative branch of state government.
- (5) "Local government" means:
  - (a) a county, city, town, or metro township;
  - (b) a special district governed by Title 17B, Limited Purpose Local Government Entities - Special Districts;
  - (c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;
  - (d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;
  - (e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

- (f) a redevelopment agency; or
- (g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

Amended by Chapter 9, 2025 Special Session 1

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

- (1) The Legislature may, by passing legislation in accordance with this section, prohibit 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.
- (2) For purposes of this section, a federal directive violates the principles of state sovereignty if the federal directive restricts or infringes upon:
  - (a) a power or a right reserved to the state by the Tenth Amendment to the United States Constitution; or
  - (b) the state's rights or interests to provide for the health, safety, and welfare and promote the prosperity of the state's inhabitants.
- (3) The Office of Legislative Research and General Counsel may not open a request for legislation under this section unless:
  - (a) the request is approved by the speaker of the House of Representatives and the president of the Senate; or
  - (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.
- (4) The Legislature shall consult with and consider any recommendations provided by the attorney general concerning the potential impact that legislation under Subsection (1) may have on current or anticipated litigation.
- (5) Upon the numbering of legislation under Subsection (1), the Legislature shall provide notice of the legislation to the representatives of tribal governments listed in Subsection 9-9-104.5(2)(b).
- (6) Legislation under Subsection (1) shall:
  - (a) identify the federal directive the Legislature has determined violates the principles of state sovereignty in accordance with Subsection (2);
  - (b) include the information or findings upon which the Legislature has made the determination in Subsection (6)(a);
  - (c) specify the government officers to which the legislation applies;
  - (d) explain the effect that the 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
  - (e) describe any other requirements for a government officer specified in Subsection (6)(c) to comply with the legislation.
- (7) After legislation under Subsection (1) is passed, the legislation may be amended or repealed only by legislation opened in accordance with Subsection (3).
- (8) The inaction of the Legislature in determining that a federal directive violates the principles of state sovereignty by passing legislation under this section:
  - (a) does not imply or create a presumption that the federal directive is lawful under the United States Constitution; and

- (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.
- (9) This section supersedes any conflicting provisions of Utah law.

Amended by Chapter 355, 2025 General Session