

**Effective 5/6/2026**

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

- (1) As used in this section:
  - (a) "Commission" means the Federalism Commission created in Section 63C-4a-302.
  - (b) "Federal proprietary interest lands" means federally controlled lands in which the federal government holds only a proprietary interest:
    - (i) as an ordinary landowner with no governing or legislative jurisdiction; and
    - (ii) as described in:
      - (A) the Report to the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas within the States, Parts 1 and 2, published in April 1956; and
      - (B) the Inventory Report on Jurisdictional Status of Federal Areas within States, prepared by the General Services Administration in June 1962.
  - (c) "Legislative jurisdiction" means the authority of a government to create, enforce, and carry out laws within a jurisdiction.
  - (d) "State entity" means:
    - (i) any department, agency, board, commission, or other instrumentality of the state; or
    - (ii) a political subdivision of the state.
- (2) Pursuant to the Ninth and Tenth Amendments of the United States Constitution, Utah solemnly affirms the state's sovereignty and fully and unconditionally reserves and asserts all rights and powers, directly and indirectly related to those rights and powers.
- (3) The affirmation, reservation, and assertion of state sovereignty under Subsection (2) includes rights and claims of set-off by the state for any amounts the state claims to have been inequitably or unlawfully caused or imposed by the federal government.
- (4) The federal government is a government of limited jurisdiction and power.
- (5)
  - (a) The state has general governing authority under the state's inherent police power jurisdiction over all governing matters within the state affecting public welfare, safety, health, and morality, as recognized under the Tenth Amendment to the United States Constitution.
  - (b) The state affirms that the state has never ceded legislative jurisdiction over federal proprietary interest lands, which account for approximately 35 million acres in Utah, or 96% of federally controlled lands in the state.
  - (c) The subject areas within the state's police powers jurisdiction over federal proprietary interest lands include, without limitation:
    - (i) natural resources;
    - (ii) water resources and water rights;
    - (iii) agriculture;
    - (iv) health, safety, and welfare;
    - (v) land health, access, and productivity;
    - (vi) zoning and planning;
    - (vii) enforcement of state law;
    - (viii) education; and
    - (ix) energy resources.
  - (d) In asserting the state's inherent police power, a state entity shall:
    - (i) identify federally controlled lands that are federal proprietary interest lands; and
    - (ii) presume that all federally controlled lands are federal proprietary interest lands unless the federal government can demonstrate, through specific constitutional enumeration or cession

of legislative jurisdiction by the state, that the federal government has constitutional or legislative jurisdiction over the lands.

- (6) The federalism canon, as prescribed by the United States Supreme Court, requires courts to presume that federal law does not preempt state law because of the sovereignty the states enjoy under the United States Constitution, as amended.
- (7) The balance of governing jurisdiction and power protects the diversity of the states and ensures the self-governing voice of the people.
- (8)
  - (a) Jurisdiction over all governing subject matters arising within the state is presumed to reside with the state except as otherwise enumerated in the United States Constitution, as amended.
  - (b) The presumption of state jurisdiction under this Subsection (8) may only be overcome if the federal government demonstrates that jurisdiction over the subject matter in question is specifically enumerated to the federal government under the United States Constitution, as amended.
  - (c) If a conflict arises whereby the federal government asserts jurisdiction over subject matters not enumerated under the United States Constitution, as amended, the federal government bears the burden of establishing federal jurisdiction over the subject matter through coordination with the state.

Amended by Chapter 381, 2026 General Session