

STATE SOVEREIGNTY AND RIGHTS OF SET-OFF

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: LaVar Christensen

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill reaffirms state sovereignty and reserves all rights and claims, including set-off, for damages, losses, costs, and expenses incurred but not fully reimbursed against any amounts that the state owes the federal government.

Highlighted Provisions:

This bill:

- ▶ reaffirms the state's sovereign rights as outlined in the Ninth and Tenth Amendments of the Constitution of the United States of America;
- ▶ reserves all rights of the state to claim a credit or set-off for any amount the state may incur due to the loss or wrongful withholding of its public lands or for the incarceration of illegal aliens that are not reimbursed by the federal government against any amount that the state is claimed to owe the federal government; and
- ▶ provides that the state is relieved of all liability for the payment of funds owed to the federal government for which the state exercises its rights of set-off.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



28 **63G-12-403**, Utah Code Annotated 1953

29

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

31 Section 1. Section **63G-12-403** is enacted to read:

32 **63G-12-403. State sovereignty and rights of set-off.**

33 (1) (a) Pursuant to the Ninth and Tenth Amendments of the Constitution of the United
34 States of America, the State of Utah does solemnly affirm its state sovereignty and fully and
35 unconditionally reserves and asserts all rights and powers, directly and indirectly related to
36 those rights and powers.

37 (b) This affirmation, reservation, and assertion includes rights and claims of set-off by
38 the State of Utah against any amounts the state may be claimed to owe the federal government.

39 (2) The state may exercise and apply as a credit, any amounts the state incurs due to the
40 violation of the state's sovereign powers or other acts and omissions of the federal government,
41 including:

42 (a) all costs and damages sustained by the state due to the loss or wrongful withholding
43 of its public lands; and

44 (b) all costs of incarceration of illegal aliens for crimes committed in the state if and to
45 such extent as those costs are not fully reimbursed by the federal government.

46 (3) The state is not liable for any amounts or federal claims which are subject to this
47 section or other legal and equitable protections of the state's interests.

Legislative Review Note
as of 1-24-12 2:40 PM

Office of Legislative Research and General Counsel