

1 **UTAH CONSTITUTIONAL SOVEREIGNTY ACT**

2 2024 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Scott D. Sandall**

5 House Sponsor: Ken Ivory

7 **LONG TITLE**

8 **General Description:**

9 This bill enacts the Utah Constitutional Sovereignty Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ establishes a framework for the Legislature, by concurrent resolution, to prohibit the
- 14 enforcement of a federal directive within the state by government officers if the
- 15 Legislature determines the federal directive violates the principles of state
- 16 sovereignty;
- 17 ▶ describes the ways in which a federal directive violates the principles of state
- 18 sovereignty;
- 19 ▶ limits the authority for requesting a concurrent resolution under the bill;
- 20 ▶ requires the Legislature to consult with the attorney general regarding the potential
- 21 impact of a concurrent resolution on litigation and to provide notice to
- 22 representatives of tribal governments;
- 23 ▶ specifies the required contents of a concurrent resolution;
- 24 ▶ clarifies the effects of a concurrent resolution upon adoption;
- 25 ▶ establishes requirements for the termination of a concurrent resolution; and
- 26 ▶ clarifies the effects of legislative inaction on a federal directive.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 This bill provides a special effective date.

31 **Utah Code Sections Affected:**

32 ENACTS:

33 **63G-16-201**, Utah Code Annotated 1953

34 **63G-16-202**, Utah Code Annotated 1953

35

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

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

38 **Part 2. Utah Constitutional Sovereignty Act**

39 **63G-16-201. Definitions.**

40 As used in this part:

41 (1) "Board of education" means:

42 (a) a local school board described in Title 53G, Chapter 4, School Districts;

43 (b) the State Board of Education;

44 (c) the State Charter School Board created under Section **53G-5-201**; or

45 (d) a charter school governing board described in Title 53G, Chapter 5, Charter

46 Schools.

47 (2) "Federal agency" means a department, agency, authority, commission, council,

48 board, office, bureau, or other administrative unit of the executive branch of the United States

49 government.

50 (3) (a) "Federal directive" means:

51 (i) a statute passed by the United States Congress;

52 (ii) an executive order by the president of the United States;

53 (iii) a rule or regulation adopted by a federal agency; or

54 (iv) an order or action by:

55 (A) a federal agency; or

- 56 (B) an employee or official appointed by the president of the United States.
57 (b) "Federal directive" does not include any order by the federal government calling the
58 Utah National Guard into the service of the United States.
59 (4) (a) "Government officer" means:
60 (i) an individual elected to a position in state or local government, when acting in the
61 capacity of the state or local government position;
62 (ii) an individual elected to a board of education, when acting in the capacity of a
63 member of a board of education;
64 (iii) an individual appointed to fill a vacancy in a position described in Subsection
65 (4)(a)(i) or (ii), when acting in the capacity of the position; or
66 (iv) an individual appointed to or employed in a full-time position by state government,
67 local government, or a board of education, when acting in the capacity of the individual's
68 appointment or employment.
69 (b) "Government officer" does not include a member or employee of the legislative
70 branch of state government.
71 (5) "Local government" means:
72 (a) a county, city, town, or metro township;
73 (b) a special district governed by Title 17B, Limited Purpose Local Government
74 Entities - Special Districts;
75 (c) a special service district governed by Title 17D, Chapter 1, Special Service District
76 Act;
77 (d) a community reinvestment agency governed by Title 17C, Limited Purpose Local
78 Government Entities - Community Reinvestment Agency Act;
79 (e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;
80 (f) a redevelopment agency; or
81 (g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter
82 13, Interlocal Cooperation Act.

83 Section 2. Section **63G-16-202** is enacted to read:

84 **63G-16-202. Resolution of the Legislature invoking state sovereignty --**
85 **Requirements -- Effect upon adoption -- Termination -- Relation to other law.**

86 (1) The Legislature may, by concurrent resolution, prohibit a government officer from
87 enforcing or assisting in the enforcement of a federal directive within the state if the
88 Legislature determines the federal directive violates the principles of state sovereignty in
89 accordance with Subsection (2).

90 (2) A federal directive violates the principles of state sovereignty if the federal
91 directive restricts or infringes upon:

92 (a) a power or a right reserved to the state by the Tenth Amendment to the United
93 States Constitution; or

94 (b) the state's rights or interests to provide for the health, safety, and welfare and
95 promote the prosperity of the state's inhabitants.

96 (3) A request for a concurrent resolution under Subsection (1) may not be filed unless:

97 (a) the request is approved by the speaker of the House of Representatives and the
98 president of the Senate; or

99 (b) while the Legislature is convened and conducting business on the floor, identical
100 motions to approve the request are made in each chamber of the Legislature and both motions
101 are approved by a two-thirds majority of the members present in each chamber.

102 (4) The Legislature shall consult with and consider any recommendations provided by
103 the attorney general concerning the potential impact that a concurrent resolution may have on
104 current or anticipated litigation.

105 (5) Upon the filing of a request for a concurrent resolution under Subsection (1), the
106 Legislature shall provide notice of the concurrent resolution, including the short title and
107 proposed objectives, to the representatives of tribal governments listed in Subsection
108 9-9-104.5(2)(b).

109 (6) A concurrent resolution under Subsection (1) shall:

110 (a) identify the federal directive the Legislature has determined violates the principles
111 of state sovereignty under Subsection (2);

112 (b) include the information or findings upon which the Legislature has made the
113 determination in Subsection (5)(a);

114 (c) specify the government officers to which the concurrent resolution applies;

115 (d) explain the effect that the concurrent resolution will have on the applicability of the
116 federal directive within the state, including a description of any activities or forms of assistance
117 that a government officer specified in Subsection (5)(c) is prohibited from conducting in
118 connection with the enforcement of the federal directive; and

119 (e) describe any other requirements for a government officer specified in Subsection
120 (5)(c) to comply with the concurrent resolution.

121 (7) A concurrent resolution under Subsection (1):

122 (a) takes effect upon adoption and has the force of law; and

123 (b) after taking effect, may only be terminated by concurrent resolution.

124 (8) The requirements for filing a request for a concurrent resolution in Subsection (3)
125 apply to a concurrent resolution described in Subsection (6)(b).

126 (9) The inaction of the Legislature in determining that a federal directive violates the
127 principles of state sovereignty by concurrent resolution under this 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) This section supersedes any conflicting provisions of Utah law.

133 **Section 3. Effective date.**

134 If approved by two-thirds of all the members elected to each house, this bill takes effect
135 upon approval by the governor, or the day following the constitutional time limit of Utah
136 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,

137 the date of veto override.