



Mar. 25, 2025

Dear Speaker Schultz, President Adams, and Members of the Legislature,

As we near the end of this year's bill review session, I want you to know how much I truly appreciate you and the work that you do on behalf of the people of Utah. The work of a legislator is never truly done, and you sacrifice countless hours on behalf of your constituents. Utah is a better place because of the work you do.

I hope you will forgive the length of this letter. Please note that, while this letter is directed to you, it is also intended for the citizens of our state. As such, I hope you will not be offended by my sharing several extended passages from the founding period of our country, as it is critical to my thinking around this bill. We are lucky to live in a state with a legislature that is deeply committed to the teaching of civics; I proudly signed H.B. 381, Civics Education Amendments (Rep. Welton) and S.B. 334, Center for Civics Excellence at Utah State (Sen. Johnson) yesterday. I believe they are two of the most important bills of the 2025 session. And yet, I digress.

I have had the unique opportunity to work and serve in all three branches of government. I am grateful to live in a state that chose a form of government virtually identical to our national government. That means the ideas and writings of the founders of our great nation apply directly to our own government institutions. Indeed, it is the words of Madison, Adams, Hamilton, and others that have influenced my decision today.

Utah is tremendously blessed to have an active, engaged legislature. (Granted, 582 bills may be a bit *too* active ... but we'll leave that discussion for another time.) Our system — with three separate, distinct, independent, and coordinate branches of government — simply does not work without a strong, diligent, and effective Legislature.

Most people believe that our three branches of government are “co-equal” branches of government. However, that is not exactly correct. While all three hold equal status and separate and important powers that serve to check and balance the others, the founders understood and intended that the legislative branch would be the most powerful. In Federalist 51, James Madison succinctly noted that “[i]n a Republican Government, the legislative authority necessarily predominates.”

This was both a good thing and an area of concern. On the positive side, John Adams posited that the legislative branch “is the only instrument by which the body of the people can act; the only in which their opinions can be known and collected; the only means by which their wills can be united, and the strength exerted, according to any principle or continued system.”

And yet, the founders worried about any one branch gaining too much power. In Federalist 71, Alexander Hamilton warned against legislative dominance:

The tendency of the legislative authority to absorb every other, has been fully displayed and illustrated by examples in some preceding numbers. In governments purely republican, this tendency is almost irresistible. The representatives of the people, in a popular assembly, seem sometimes to fancy that they are the people themselves, and betray strong symptoms of impatience and disgust at the least sign of opposition from any other quarter; as if the exercise of its rights, by either the executive or judiciary, were a breach of their privilege and an outrage to their dignity. They often appear disposed to exert an imperious control over the other departments; and as they commonly have the people on their side, they always act with such momentum as to make it very difficult for the other members of the government to maintain the balance of the constitution.

I want to thank you as legislators for very often rejecting that “irresistible” tendency to “exert imperious control” over the other branches of government. Just this session, troublesome bills failed that could have been categorized as overreaches. I am the first to recognize that you are often unfairly criticized for every bill idea that may come forward, even when your process serves to improve those bills or eliminate them altogether. And yet, the founders believed each branch would jealously guard their own power from incursions — in fact they counted on it — and used that tension to design a system that has survived for 237 years. Unlike your federal counterparts, you have jealously guarded your authority and I support you in doing so.¹

I feel confident that, at least in recent memory, no governor has been more supportive of the legislature. I am profoundly grateful for the opportunity I had to serve in the House of Representatives. I have frequently stood up for your role and defended many decisions, even when unpopular. Following the pandemic, when you decided to take back some of *your* emergency powers that had been delegated to the executive branch, I willingly signed the bill. In fact, I believe so strongly in your role that I filed an amicus brief supporting you in the *League of Women Voters* case. In that brief, I wrote that what I was defending was “the legislature’s ability to use its constitutionally delegated power as part of our republican system of government.” I may not always agree with you, but I will always defend your role and the essential part you play.

¹ Sadly, they never could have predicted our current Congress that has completely abdicated its power to the president, the judicial branch, and an unforeseen and unelected bureaucracy. Congress has somehow become the weakest branch of government to the detriment of our nation.

While the legislative branch was intended to be the most powerful branch of government, it was not intended to be all-powerful. The founders wisely implemented measures to help check those almost irresistible tendencies, including dividing the legislative body in two (with different constituencies and terms of service), giving the executive branch a veto power and — most importantly — creating an independent judicial branch.

Just as a strong legislative branch is critical, so too is an independent judiciary. As constitutional scholar Yuval Levin has written, “Perhaps above all, the new system would require the courts to play an active part in the interbranch struggle for power that the Constitution rendered intentionally complicated and unsettled. Federal courts would police the structures and boundaries of the system, and this required them to be genuinely independent ... And the framers’ commitment to this independence was extraordinary.” In Federalist 78, Alexander Hamilton specifically spelled out the importance of “[t]he complete independence of the courts of justice ... [f]or I agree, that ‘there is no liberty, if the power of judging be not separated from the legislative and executive powers.’”

The founders very intentionally sought to protect the judiciary from democratic politics as a way of guarding them from both branches of government. In the words of Justice Clarence Thomas, “[i]t is this ability to render judgement without concern for anything but the law, that should distinguish judges from members of the legislature or the executive branch. As Americans, we have long recognized the importance of an independent judiciary to our ongoing experiment in democracy.”

And this brings me to SB 296.

This bill changes the longstanding statute under which the Utah Supreme Court elects its own leader, the Chief Justice of the Supreme Court. S.B. 296 seeks to establish a process in which the Chief Justice would be appointed by the Governor and confirmed by the Senate. Supporters of the bill correctly point out that the Chief Justice of the U.S. Supreme Court is appointed by the President and confirmed by the Senate. If that were all the bill did, it is something I could support. However, this bill takes a very meaningful and problematic additional step: requiring the appointment process to occur every four years. This means that, unlike the selection of the Chief Justice of the U.S. Supreme Court, the Chief Justice of the Utah Supreme Court would be required to go through a political appointment, a Senate confirmation committee, and full Senate confirmation processes every four years.

It is not lost on me that this bill actually gives me — the Governor — *more* power than I currently possess. I admit it is very tempting to sign this bill and assure that the Chief Justice would need to stay in my good graces to retain his or her position. Knowing the head magistrate of our state’s highest court would have to think twice before ruling against me or checking my power is difficult to reject. I also recognize that refusing power is not en vogue these days and may be seen as weakness. But just because I can, doesn’t mean I should. And while I appreciate your faith and trust in extending me this new authority, I must respectfully decline.

For these reasons, I have decided to veto SB 296. In so doing, I do not mean to imply that the judiciary is infallible or beyond reproach. I am deeply disappointed in some recent decisions that I believe are wrong. I support changes we made last year to the selection committees and the other bills passed this year around constitutional review and standing. Furthermore, I pledge to continue to work to change our laws and even amend the constitution if necessary to protect our state. I remain grateful that a decision by the Supreme Court is not the last word. A vote of two-thirds of the legislature and 50.1% of the public can overturn any decision. But just because I disagree with the court, does not mean that the system is broken or corrupted. Reasonable and intelligent legal minds can and do disagree on these decisions. It is possible to vehemently oppose a ruling and still support the institution. Indeed, I believe as an elected official I have an obligation to make sure that I am not responsible for hastening the decay of trust in our most important institutions. For once lost, that trust is excruciatingly difficult to return.

Much like the tearing down of Chesterton's Fence, while it might feel good now, I believe we would eventually come to regret rejecting ancient wisdom and injecting our own politics into the independent judiciary.

Please note that this decision is mine and mine alone. I know that there were negotiations with the judiciary during the session, and no one from that branch has asked me for this veto. As such, I must conclude by recognizing my own limitations and acknowledging that my veto power is not definitive. If two-thirds of you disagree with me then this law will go into full effect and I have sworn an oath to the constitution of this state and United States and will faithfully execute the law — even those I disagree with.

As we are soon to celebrate the 250th anniversary of the signing of the Declaration of Independence and the founding of the greatest nation in the history of the world, I feel profoundly grateful for this intricate, messy, and beautiful form of government that has been gifted to us. I thank God every day for the role you and I get to play in writing the history of our great state. I love, admire, and respect you even — and especially — when we disagree. Thank you again for all you continue to do on behalf of the people of Utah.

Respectfully,

A handwritten signature in black ink, appearing to read "Spencer J. Cox". The signature is stylized and cursive, with a large initial "S" and "C".

Spencer J. Cox
Governor