

1 **JOINT RULES RESOLUTION ON LEGISLATIVE REVIEW**

2 **NOTES**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Ken Ivory**

6 Senate Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This joint rules resolution of the Legislature modifies legislative rules related to notes
11 attached to proposed legislation.

12 **Highlighted Provisions:**

13 This resolution:

- 14 ▶ defines terms;
- 15 ▶ requires the legislative general counsel to review jurisdiction and sovereignty when
16 preparing a legislative review note placed on legislation - commonly referred to as a
17 "constitutional note" - if the legislation has implications on federalism related to the
18 Tenth Amendment to the United States Constitution; and
- 19 ▶ provides procedures for that process.

20 **Special Clauses:**

21 None

22 **Legislative Rules Affected:**

23 AMENDS:

24 **JR4-2-402**

26 *Be it resolved by the Legislature of the state of Utah:*

27 Section 1. **JR4-2-402** is amended to read:



28 **JR4-2-402. Legislative review notes.**

29 (1) As used in this section, "federalism implications" includes one or more of the
30 following:

31 (a) the legislation asserts, maintains, defends, limits, expands, or otherwise
32 substantively affects the jurisdictional power or authority of the state of Utah, including the
33 state's ability to govern and regulate its lands and natural resources;

34 (b) the legislation asserts, maintains, defends, limits, expands, or otherwise
35 substantively affects the sovereign powers of the state of Utah, or directly regulates the state in
36 a way that interferes with a function that is essential to the state's separate and independent
37 existence, including any of the following state sovereign powers:

38 (i) police power;

39 (ii) authority to govern the health, safety, and welfare of its residents;

40 (iii) authority to provide for the education of its residents;

41 (iv) authority to protect the lives, liberties, and properties of its residents; or

42 (v) another sovereign power of the state;

43 (c) the legislation asserts, maintains, defends, limits, expands, or otherwise
44 substantively affects the power of the state of Utah to exercise, maintain, or defend its
45 sovereign rights, or to otherwise serve as a check on the power of the federal government; or

46 (d) the legislation has the effect of asserting, maintaining, defending, limiting,
47 expanding, or otherwise substantively affecting a function that is essential to the state of Utah's
48 separate and independent existence, unless the preemption by federal law is clear and certain
49 because:

50 (i) authority for the federal preemption is found in a specific provision of the United
51 States Constitution;

52 (ii) the federal preemption does not encroach upon authority reserved to the states; and

53 (iii) the constitutional authority for the federal preemption is necessitated by the
54 presence of a problem of national scope.

55 [(+)] (2) (a) The legislative general counsel shall place a legislative review note on the
56 legislation regarding the legislation's constitutionality and, as necessary, the legislation's
57 federalism implications.

58 (b) If the legislation has a federalism implication, each federalism implication shall be

59 identified.

60 [~~2~~] (3) (a) If an amendment or a substitute to legislation appears to substantively
61 change the legislation's constitutionality or federalism implications, the legislative general
62 counsel shall prepare an amended legislative review note for the legislation.

63 (b) The amended legislative review note shall be made available to legislators in hard
64 copy or electronically.

65 [~~3~~] (4) The legislative review note or amended legislative review note is not an
66 official part of the legislation.

Legislative Review Note
as of 2-7-14 4:43 PM

Office of Legislative Research and General Counsel