

# Constitutional Defense Council Legislation

1 REFERENCE TITLE: \_\_\_\_\_

2 State of \_\_\_\_\_  
3 (Introducing \_\_\_\_\_)

4 \_\_\_\_\_ Legislature  
5 \_\_\_\_\_ Session

6 20\_\_\_\_  
7 \_\_\_\_ B. \_\_\_\_

8 Introduced by \_\_\_\_\_

## 9 AN ACT

10 AMENDING TITLE \_\_\_\_, CHAPTER \_\_\_\_\_, ARTICLE \_\_\_\_\_, \_\_\_\_\_ REVISED  
11 STATUTES, BY ADDING SECTION \_\_\_\_\_; RELATING TO THE CONSTITUTIONAL  
12 DEFENSE COUNCIL.

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14 Be it enacted by the Legislature of the State of \_\_\_\_\_:

15 Section 1. Title \_\_\_\_, chapter \_\_\_\_, article \_\_\_\_\_, \_\_\_\_\_ Revised Statutes, is amended to read:

### 16 Constitutional defense council

17 A. In this section: 1) "Advisory member" means a member who gives advice to the other  
18 members of the council at meetings of the council but who is not eligible to vote, is not a  
19 member of the council for purposes of determining whether a quorum is present and is not  
20 eligible to receive any compensation or reimbursement of expenses by the council; and 2)  
21 "Council" means constitutional defense council.

22 B. The State of \_\_\_\_\_ constitutional defense council is established consisting of: 1) the  
23 governor or his designee; 2) one other person appointed by the governor; 3) the attorney  
24 general; 4) a person appointed by the President of the Senate; 5) a person appointed by the  
25 Speaker of the House of Representatives; 6) one advisory member appointed by the President of  
26 the Senate; and 7) one advisory member appointed by the Speaker of the House of  
27 Representatives.

28 C. The purpose of the council is restoring, maintaining, and advancing the state's  
sovereignty and authority to restore principles of dual sovereignty and protect individual liberty.

D. Meetings of the council shall be held in public and at least quarterly; additional  
meetings may be called by any member; and discretionary decisions of the council shall be  
made by a majority vote of the members.

1 E. The council shall hold regular quarterly public meetings or hearings regarding any of  
2 the following: 1) federal preemption, mandates and conditional grants; 2) court rulings; 3) the  
3 authority granted to, or assumed by, the federal government; 4) laws, regulations and practices  
4 of the federal government; 5) regulatory primacy; 6) strategic litigation; 7) interstate compacts  
5 and other forms of cooperative action among the states; 8) Article V of the U.S. Constitution; 9)  
6 the development of model legislation; 10) the use and management of federal lands; and 11) the  
7 exercise of coordination rights enjoyed by the state or its political subdivisions under federal  
8 law.

9 F. The council shall establish a process for receiving and evaluating the merits of  
10 complaints from the public regarding alleged unconstitutional actions by the federal  
11 government, which violate the constitutional rights of citizens of this state or interfere with the  
12 following reserved powers of the state: 1) control over the structure and mechanics of state  
13 government; 2) the establishment and regulation of public schooling; 3) local criminal law  
14 enforcement; 4) the regulation of health care; 5) the regulation of personal property outside of  
15 commerce, such as firearms; 6) the regulation of domestic and family affairs, such as marriage  
16 and guardianship; 7) the administration of civil justice (between citizens of the same state and  
17 outside of bankruptcy), such as laws concerning personal injury torts, contracts, and nuisance  
18 laws; 8) control over wages and qualifications of government employees who directly perform  
19 legislative, executive, or judicial tasks for the state, state agencies or political subdivisions; 9)  
20 the establishment and regulation of local government; 10) the regulation of real property, such  
21 as the regulation of land title, land use, and land transfers; 11) the regulation of agriculture; and  
22 12) the regulation of nonagricultural businesses that do not engage in commerce across state  
23 lines.

24 G. At each of its quarterly public meetings, or more frequently as determined by  
25 majority vote, the council shall discuss and consider appropriate responses and remedies for  
26 potentially unconstitutional actions taken by the federal government based on meritorious  
27 complaints received from the public, including, but not limited to, the development of model  
28 legislation, the pursuit of cooperative interstate action, and the initiation and pursuit of  
litigation.

H. The council may require the attorney general or his designee, as well as outside  
experts, to provide testimony on potential model legislation, interstate cooperative action, or  
legal actions that would further the council's purposes.

I. The council may select and employ attorneys to implement its purposes, including the  
pursuit of litigation in the name of this state. The attorney general may assist any council  
attorney in any manner deemed appropriate by the council. When requested by the council,  
agencies and departments of this state, except the department of law, shall provide reasonable  
personnel and resources to assist in any matter pursued by the council. The council shall not hire  
permanent staff.

J. A constitutional defense council revolving fund is established to be administered by  
the council under the conditions and for the purposes prescribed by this section. At the  
beginning of each fiscal year, the Attorney General shall deposit in the revolving fund \_\_\_% of

1 the total annual budget from all sources appropriated to the Office of the Attorney General.  
2 Monies in the fund shall be used by the council to pay the fees and costs of legal actions  
3 initiated pursuant to subsection F or G of this section, and other expenses authorized by a  
4 majority vote of the council, including the reasonable expenses of expert witnesses and the  
5 reasonable cost of any study, analysis or report. The chair of the council shall transmit all claims  
6 approved by a majority vote of the council to the director of the department of administration  
7 for payment. Members are not eligible to receive compensation but are eligible to receive  
8 reimbursement for expenses from the constitutional defense council revolving fund.

9 K. On or before the fifteenth day of each month, the council's designated ombudsman  
10 shall cause to be filed with the council members, the President of the Senate, the Speaker of the  
11 House of Representatives, and the Governor a full and complete account of the receipts and  
12 disbursements for the constitutional defense council revolving fund for the preceding month.  
13 With five business days' notice, the council may order an attorney employed by the council to  
14 cease all work to be charged to the constitutional defense council revolving fund.

15 L. The council shall submit a report on December 1 of each year to the Speaker of the  
16 House of Representatives, the President of the Senate and the Governor that summarizes the  
17 council's activities.

18 M. Taxpaying residents of this state have legal standing in state court to file an  
19 appropriate action at law or equity to compel the constitutional defense council to fulfill its  
20 statutory mandates.  
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