

1                   **CONCURRENT RESOLUTION - LETTER TO FEDERAL**  
2                                   **GOVERNMENT**

3                                   2012 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Christopher N. Herrod**

6                                   Senate Sponsor: Margaret Dayton

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8 **LONG TITLE**

9 **General Description:**

10           This concurrent resolution of the Legislature and the Governor demands that the  
11 national government of the United States declare to the state of Utah its intent to  
12 dispose of its public lands in Utah or cede control of its lands to the state of Utah by  
13 July 1, 2012, or the state of Utah will take appropriate action to vindicate its rights  
14 under the United States Constitution, Utah's Enabling Act, and natural law.

15 **Highlighted Provisions:**

16           This resolution:

17           ▶ demands that, by July 1, 2012, the national government of the United States  
18 communicate, in writing, to the Governor of the state of Utah, the President of the  
19 Utah Senate, and the Speaker of the Utah House of Representatives, the intent of the  
20 national government of the United States to commit to either, by January 1, 2013,  
21 begin:

22           • selling public lands held by the national government in Utah and depositing 5%  
23 of those proceeds into Utah's permanent school fund as required by Utah's  
24 Enabling Act; or

25           • ceding control of, management of, and authority to sell public lands in Utah held  
26 by the national government to Utah's state government; and

27           ▶ provides that, if the national government of the United States affirmatively rejects



28 both courses of action, declines to commit to one of these courses of action, or fails to  
29 communicate its response to this demand by July 1, 2012, the government of the state of Utah,  
30 on behalf of the citizens of the state of Utah, will take appropriate action to vindicate its rights  
31 under the United States Constitution, Utah's Enabling Act, and natural law.

32 **Special Clauses:**

33 None



35 *Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

36 WHEREAS, the Legislature and the Governor of the state of Utah, on behalf of Utah's  
37 current and future citizens, seeks recognition of, and vindication of, certain rights granted to it  
38 by the Constitution of the United States, guaranteed to it by the United States government by  
39 the passage of Utah's Enabling Act, and secured to it by natural law;

40 WHEREAS, the Legislature and the Governor of the state of Utah seek redress from the  
41 United States government by July 1, 2012;

42 WHEREAS, the Legislature and the Governor of the state of Utah assert, as a state  
43 within the United States of America, that certain express and implied promises made by the  
44 national government of the United States of America have not been fulfilled or have been  
45 abrogated by the direct and indirect action of the national government, to the detriment of the  
46 citizens of Utah;

47 WHEREAS, in granting the right to "the People of Utah to form a Constitution and  
48 State Government, and to be admitted into the Union on an equal footing with the original  
49 States," the United States Congress, the President of the United States, and the citizens of the  
50 United States made certain express and implied promises to Utah, which remain unfulfilled  
51 over one hundred years later;

52 WHEREAS, in addition, subsequent Congresses and Presidents have taken affirmative  
53 actions that, intentionally or not, change the covenants made between the national government  
54 of the United States and the citizens and government of the state of Utah;

55 WHEREAS, Utah's Enabling Act guarantees that "five per centum of the proceeds of  
56 the sales of public lands lying within said State, which shall be sold by the United States  
57 subsequent to the admission of said State into the Union, after deducting all the expenses  
58 incident to the same, shall be paid to the said State, to be used as a permanent fund, the interest

59 of which only shall be expended for the support of the common schools within said State";

60 WHEREAS, the national government of the United States has failed to fulfill its  
61 obligation under this portion of Utah's Enabling Act, as nearly 70% of the land area in Utah  
62 continues to be held by the national government and has not been sold;

63 WHEREAS, Utah's citizens, particularly its school children, have been and continue to  
64 be harmed by the failure of the national government of the United States to fulfill its promises;

65 WHEREAS, the loss of revenues from the sale of the land and Utah's inability to tax the  
66 land decreases the money available to the state of Utah to spend on public education;

67 WHEREAS, Congress's power to make this promise is explicitly granted to it by Article  
68 IV, Section 3 of the Constitution of the United States: "New States may be admitted by  
69 Congress into this Union; . . .";

70 WHEREAS, because Congress voluntarily imposed upon the national government the  
71 obligation to sell the public lands it holds within Utah, the United States Constitution, contract  
72 law, and fundamental fairness require that the national government of the United States be  
73 required to fulfill the promises it made in Utah's Enabling Act;

74 WHEREAS, by passing the Federal Land Policy and Management Act of 1976, 43  
75 U.S.C. Sec. 1701 et seq., and other land management legislation, which shifted the national  
76 government of the United States' policy from selling lands within states held by the national  
77 government to retaining and managing those lands, the national government of the United  
78 States affirmatively broke the promise contained in Utah's Enabling Act and breached its  
79 contractual obligation to the citizens of Utah;

80 WHEREAS, Utah's Enabling Act also guarantees that, if the citizens of Utah meet the  
81 conditions for becoming a state established by Congress in the Enabling Act, "the proposed  
82 State of Utah shall be deemed admitted by Congress into the Union, under and by virtue of this  
83 act, on an equal footing with the original States, . . .";

84 WHEREAS, Congress's action in failing to sell public lands within Utah has denied  
85 Utah its right under the Enabling Act to exist as a state on an "equal footing" with the original  
86 states;

87 WHEREAS, the table attached as appendix A illustrates that Utah is not on an equal  
88 footing with the original states;

89 WHEREAS, the table compares the percentage of land in Utah held by the national

90 government of the United States with the percentage of land in each of the original 13 states  
91 held by the national government of the United States;

92 WHEREAS, to summarize the table, the national government owns 67.9% of the land  
93 area of Utah, and of the original 13 states, Virginia has the highest percentage of land owned by  
94 the national government at 15.7%;

95 WHEREAS, the citizens of the original 13 states have received and continue to receive  
96 significant financial benefits not enjoyed by Utah's citizens;

97 WHEREAS, by failing to sell public lands in Utah, the national government of the  
98 United States has deprived Utah's permanent school fund of money to build the school fund's  
99 principal;

100 WHEREAS, consequently, the interest generated from the permanent school fund is  
101 substantially less than it should be -- depriving Utah citizens of adequate money for public  
102 education;

103 WHEREAS, sale of public lands to private parties may allow the state to tax those  
104 lands;

105 WHEREAS, the revenues generated from those taxes can be used to further bolster  
106 public education services, provide other essential state services, or to reduce the general tax  
107 rates for all Utah citizens; and

108 WHEREAS, Utah's tax revenues and economy are harmed because economic growth  
109 through private development of, and use of, the lands cannot occur:

110 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the  
111 Governor concurring therein, on behalf of the citizens of Utah and based upon the reasons set  
112 forth in this resolution, demand that, by July 1, 2012, the national government of the United  
113 States communicate, in writing, to the Governor of the state of Utah, the President of the Utah  
114 Senate, and the Speaker of the Utah House of Representatives, the intent of the national  
115 government of the United States to commit to either, by January 1, 2013, begin (1) selling  
116 public lands held by the national government in Utah and depositing 5% of those proceeds in  
117 Utah's permanent school fund as required by Utah's Enabling Act; or (2) ceding control of,  
118 management of, and authority to sell public lands in Utah held by the national government to  
119 Utah's state government.

120 BE IT FURTHER RESOLVED by the Legislature and the Governor that if the national

121 government of the United States affirmatively rejects both courses of action, declines to  
122 commit to one of these courses of action, or fails to communicate its response to this demand  
123 by July 1, 2012, the government of the state of Utah, on behalf of the citizens of the state of  
124 Utah, will take appropriate action to vindicate its rights under the United States Constitution,  
125 Utah's Enabling Act, and natural law.

126 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of  
127 the United States, the Majority Leader of the United States Senate, the Speaker of the United  
128 States House of Representatives, the United States Department of the Interior, and to the  
129 members of Utah's congressional delegation.

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**Legislative Review Note**

**as of 1-26-12 11:42 AM**

**Office of Legislative Research and General Counsel**