

**CONCURRENT RESOLUTION REGARDING THE CREATION  
OF NATIONAL MONUMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen H. Urquhart**

House Sponsor: Michael E. Noel

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**LONG TITLE**

**General Description:**

This concurrent resolution of the Legislature and the Governor urges Congress to create a process for establishing a national monument that includes public participation and local and state involvement.

**Highlighted Provisions:**

This resolution:

- ▶ urges Congress to create a process for establishing a national monument that includes public participation and local and state involvement;
- ▶ expresses opposition to the presidential creation of any large area national monument as a violation of the Antiquities Act's smallest-area-compatible mandate;
- ▶ declares that unchecked exercise of power concentrated in the President has serious consequences for Utah, as nearly 60% of the state is federally owned; and
- ▶ urges Congress to check the President's ability to exercise this power by amending the Antiquities Act to clarify its actual intent, which is to establish small discrete monuments or memorials.

**Special Clauses:**

None

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



28 WHEREAS, the Antiquities Act of 1906, 16 U.S.C. Sec. 431, authorizes the President  
29 of the United States to bypass congressional, state, and local land management policies and tie  
30 up any federal land in a state through national monument declarations;

31 WHEREAS, the Antiquities Act requires that a national monument be designated  
32 within the smallest area compatible with the proper care of federal lands containing historic  
33 landmarks, historic and prehistoric structures, or other objects of historic or scientific interest;

34 WHEREAS, in 1996, the President of the United States abused the intent of the  
35 Antiquities Act with the creation of the Grand Staircase-Escalante National Monument without  
36 any consultation with state and local authorities or citizens;

37 WHEREAS, the size of the Grand Staircase-Escalante National Monument in Garfield  
38 and Kane counties far exceeded "the smallest areas compatible" with the feigned objectives of  
39 that monument;

40 WHEREAS, the Antiquities Act fails to provide public, local, state, or congressional  
41 participation in the act's limited processes compared with the public participation and  
42 environmental review aspects of other federal laws, including the Federal Land Policy and  
43 Management Act of 1976 (FLPMA) and the National Environmental Policy Act (NEPA);

44 WHEREAS, a confirmed United States Department of Interior internal memorandum  
45 declares other areas in Utah "may be good candidates for National Monument designation  
46 under the Antiquities Act";

47 WHEREAS, the Tenth Amendment to the United States Constitution states, "The  
48 powers not delegated to the United States by the Constitution, nor prohibited by it to the States,  
49 are reserved to the States";

50 WHEREAS, lands in the San Rafael Swell and Cedar Mesa areas of Utah are currently  
51 managed by the United States Bureau of Land Management (BLM) under the FLPMA;

52 WHEREAS, FLPMA directs the BLM to manage public lands according to Resource  
53 Management Plans which "shall be consistent with State and local plans to the maximum  
54 extent [the Secretary of Interior] finds consistent with Federal law and the purpose of  
55 [FLPMA]";

56 WHEREAS, the state of Utah and the counties of Emery, Wayne, and San Juan have  
57 recently completed an expensive and protracted multi-year FLPMA and NEPA process with  
58 the BLM and the public to revise and update the BLM's Resource Management Plans in

59 planning areas which include the San Rafael Swell and Cedar Mesa areas;

60 WHEREAS, the revised Resource Management Plans do not call for the creation of  
61 national monuments in the San Rafael Swell and Cedar Mesa areas;

62 WHEREAS, creating national monuments in the San Rafael Swell and Cedar Mesa  
63 areas would violate and undercut the integrity of the Resource Management Plans revision  
64 process in Emery, Wayne, and San Juan counties where the San Rafael Swell and Cedar Mesa  
65 areas are situated, and would be inconsistent with the plans and policies of the state of Utah  
66 and those counties and their duly elected governmental boards and leaders;

67 WHEREAS, creating national monuments in these areas would violate the  
68 constitutional guarantee of a republican form of government as well as federal statutory  
69 consistency requirements of FLPMA;

70 WHEREAS, a presidential proclamation declaring national monuments in the San  
71 Rafael Swell and Cedar Mesa areas would single-handedly bypass the revised Resource  
72 Management Plans and the universal opposition by the duly elected leaders of the state of Utah  
73 and the affected counties;

74 WHEREAS, Utah favors protecting the remarkably scenic, recreational, and sensitive  
75 areas of the San Rafael Swell and Cedar Mesa areas;

76 WHEREAS, ~~It is the policy of the State of Utah to support the highest and best use of vast tracts of land in those areas is nonetheless~~  
77 ~~continued grazing and environmentally sensitive energy and mineral development, done in~~  
78 ~~such a way as to protect and preserve the scenic and recreational values] continued grazing and~~  
78a ~~environmentally sensitive energy and mineral development in the San Rafael Swell and~~  
78b ~~Cedar Mesa areas can be done in such a way as to protect and preserve scenic and~~  
78c ~~recreational values~~ ←H ;

79 WHEREAS, as history has demonstrated in the case of the Grand Staircase-Escalante  
80 National Monument, many thousands of acres of important grazing and mineral and other  
81 multiple use resources and values have been closed to reasonable development due to the  
82 multi-hundred thousand acre national monument designation;

83 WHEREAS, Congress has considered numerous proposals to abolish or limit the  
84 President's authority to establish monuments under the Antiquities Act in recent years; and

85 WHEREAS, Utah's economy, industry, culture, way of life, and its viability as a  
86 sovereign state guaranteed a republican form of government depend on reasonable multiple-use  
87 access to the BLM lands in the San Rafael Swell and Cedar Mesa areas of the state, most of  
88 which would be taken away through national monument designation:

89 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the

90 Governor concurring therein, expresses its support for congress to create a common sense  
91 process for the federal government to establish a national monument in any state that includes  
92 extensive public participation and local and state involvement.

93 BE IT FURTHER RESOLVED that the Legislature and the Governor express their  
94 opposition to the presidential creation of any large area national monument in the state as an  
95 abuse and violation of the Antiquities Act's smallest-area-compatible mandate.

96 BE IT FURTHER RESOLVED that the Legislature and the Governor declare that this  
97 unchecked exercise of power concentrated in the President portends serious consequences for  
98 Utah, as nearly 60% of the state is federally owned.

99 BE IT FURTHER RESOLVED that the Legislature and the Governor urge Congress to  
100 check the President's ability to exercise such power by amending the Antiquities Act to clarify  
101 its actual intent, which is to establish small discrete monuments or memorials as existed in  
102 Utah prior to the unfortunate creation in 1996 of the Grand Staircase-Escalante National  
103 Monument.

104 BE IT FURTHER RESOLVED that copies of this resolution be sent to the Majority  
105 Leader of the United States Senate, the Speaker of the United States House of Representatives,  
106 and the members of Utah's congressional delegation.

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**Legislative Review Note**  
**as of 2-4-15 1:40 PM**

**Office of Legislative Research and General Counsel**