

1 **CONCURRENT RESOLUTION CALLING UPON THE NATIONAL**
2 **GOVERNMENT TO FUND THE PAYMENTS IN LIEU OF TAXES (PILT) ON A**
3 **TAX EQUIVALENCY BASIS AS EMERGENCY AND LONG-TERM STIMULUS**
4 **FOR UTAH CITIZENS, SCHOOLS, COUNTIES, AND THE STATE**

5

6 **LONG TITLE**

7 **General Description:**

8 This concurrent resolution addresses PILT.

9 **Highlighted Provisions:**

10 This resolution:

- 11 ▶ addresses PILT tax equivalency;
- 12 ▶ discusses precedent related to public lands and community and economic
13 diversity;
- 14 ▶ discusses Congress' treatment of PILT;
- 15 ▶ explains that denied the property tax replacement PILT was intended to be,
16 schools and communities have suffered;
- 17 ▶ explains that the Federal Land Valuation Model reveals PILT payments are
18 orders of magnitude lower than property tax equivalent amounts;
- 19 ▶ provides that the Federal Land Valuation Model enables timely policy
20 maker-driven valuation scenarios and assumptions;
- 21 ▶ explains that the Utah Legislature is committed to increasing public education
22 funding from increased public land revenues and to Utah being a premier public
23 land state;
- 24 ▶ asserts that the property tax burden of federally retained public lands must be
25 born by the public nationally, as committed;
- 26 ▶ asserts that the federal commitment to pay the tax equivalent amount for PILT
27 is the most effective short- and long-term COVID-19 stimulus for Utah's
28 children and communities;
- 29 ▶ calls for federal action to pay PILT on a full property tax equivalent basis under
30 specified conditions;

WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

- 31 ▶ calls for federal action to collaborate, after an existing pattern, in a timely and
32 good faith manner with Utah’s state and local leaders on community and
33 economic diversification planning with the small fraction of federally managed
34 lands within and in close proximity to Utah city boundaries; and
- 35 ▶ calls on federal action to cooperate in agreeing upon valuation assumptions for
36 the highest and best use to which lands within and around Utah’s cities might
37 have been deployed were Utah communities afforded the basic right of
38 economic diversification and development to improve their tax base, and to
39 account for the full property tax equivalent amounts for PILT payments going
40 forward.

41

42 **Other Special Clauses:**

43 None

44 List of sections affected:

45

46 Statutory text:

47 **PILT Tax Equivalency**

48 WHEREAS, “[t]he Payment in Lieu of Taxes Act of 1976 was passed at a time when U.S.

49 policy was shifting from one of disposal of federal lands to one of retention.” Congressional

50 Research Service (CRS), PILT Somewhat Simplified, October 5, 2017, page 1;

51 WHEREAS, “[t]he policy meant the retained lands would no longer be expected to enter the

52 local tax base at some later date.” Id.;

53 WHEREAS, “[b]ecause of that shift, Congress agreed with recommendations of [The Report

54 to the President and to the Congress by the Public Land Law Review Commission, June

55 1970, hereafter “Commission Report”] that if these federal lands were never to become part

56 of the local tax base, some compensation should be offered to local governments (generally

57 counties) to make up for the presence of nontaxable land within their jurisdictions.” Id.

58 WHEREAS, “PILT held the promise of both stabilizing Federal payments to counties and

59 improving prospects for tax equivalency,” concludes a study commission by the Bureau of

60 Land Management (BLM) and the United States Forest Service (USFS). An Analysis of

61 PILT-Related Payments and Likely Property Tax Liability of Federal Resource Management

62 Lands, USDA General Technical Report RMRS-GTR-36WWW, September 1999, page 1;

WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

63 WHEREAS, The U.S. Government Accountability Office confirms that PILT was meant to
64 “compensate counties by providing payments in lieu of taxes that would have been received
65 by these jurisdictions if the federal lands were privately owned.” Land Management Agencies
66 Revenue Sharing Payments to States and Counties, U.S. Government Accountability Office,
67 September 1998, page 1;

68 **Public Lands and Community and Economic Diversity – The Precedent**

69 WHEREAS, the Commission Report to the President and Congress, which formed the basis
70 for current public land law, pledged that the federal government would “make public lands
71 available for the expansion of existing communities and for the development of new cities
72 and towns”;

73 WHEREAS, under the 1998 Southern Nevada Public Land Management Act (SNPLMA),
74 federal, state, and local governments collaboratively engaged in community and economic
75 diversity planning with a small fraction of federally managed lands within and in close
76 proximity to city boundaries in the state;

77 WHEREAS, the BLM reported that funds generated under SNPLMA “will be used throughout
78 Nevada for projects such as the development of parks, trails, and natural
79 areas...[a]dditionally, five percent of the revenue goes to the State of Nevada General
80 Education Fund and 10 percent to the Southern Nevada Water Authority”;

81 WHEREAS, the Clark County, Nevada website states that “SNPLMA is critical to ... ensure
82 the viability of economic diversification, development and employment strategies desired by
83 various state and local agencies” because “... Increases in population translate directly into
84 increased land demand. ... As land availability dwindles, it drives up the cost of the remaining
85 vacant land in Clark County”;

86 **PILT Payments Have Not Been Tax Equivalent**

87 WHEREAS, according to the U.S. Department of the Interior, in 2019 Utah received
88 \$40,938,259 in PILT payments from the federal government for nearly 33 million acres of
89 federally retained land;

90 WHEREAS, this amounts to less than \$1.30 per acre;

91 WHEREAS, Utah generates nearly \$3 billion dollars in property tax, or more than \$250 per
92 acre, from the 21% private land in the state;

WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

93 WHEREAS, Utah generates more property tax in just 6 days from its 21% taxable lands
94 (\$48.1 Million), than it receives in an entire year in PILT from 65% non-taxable federal lands
95 (\$40.9 Million);

96 WHEREAS, because the technology did not exist (until the Utah Federal Land Valuation
97 Model) to determine the tax equivalent amount for Utah's more than 33 million acres of
98 federally managed lands (let alone the 640 million federally managed acres nationwide) in a
99 timely manner, the federal government devised what the Congressional Research Service
100 calls a "complex formula" for PILT;

101 WHEREAS, according to the Congressional Research Service, "[n]o precise dollar figure can
102 be given in advance for each year's PILT authorized level.";

103 WHEREAS, the Congressional Research Service continues "Five factors affect the
104 calculation of a [PILT] payment to a given county: (1) the number of acres eligible for PILT
105 payments, (2) the county's population, (3) payments in prior years from other specified
106 federal land payment programs, (4) state laws directing payments to a particular government
107 purpose, and (5) the Consumer Price Index as calculated by the Bureau of Labor Statistics.";

108 WHEREAS, despite the expressed intention of the PILT program "to make up for the
109 presence of nontaxable land," this "complex formula" for PILT does not take into account the
110 value of the land at all;

111 **Congress Treats PILT as a Discretionary Handout to Utah Children and Communities,** 112 **Rather Than a Solemn Property Tax Replacement Obligation**

113 WHEREAS, in 2014, Congress entirely failed to fund PILT in the Consolidated
114 Appropriations;

115 WHEREAS, this failure to fund PILT caused "a funding crisis that the counties of Utah had to
116 face [that] year, with all of the uncertainty that accompanied this crisis," as the Utah
117 Legislature admonished in SCR6 (2014), Concurrent Resolution Calling On Congress To
118 Provide Permanent Multiyear Funding For The Payment In Lieu Of Taxes Program;

119 WHEREAS, the 2014 PILT payments were eventually funded as a rider to the 2014 Farm
120 Bill, but only for one year, and only after political concessions were extracted as a condition
121 to fund PILT, a preexisting property tax replacement obligation of the federal government to
122 Utah's children and communities;

WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

123 WHEREAS, as stated in SCR6 (2014) “the counties of Utah need and deserve long-term
124 stability in PILT funding in a timely manner year to year, so that counties may establish their
125 own annual operating budgets with timeliness and certainty”;

126 **Denied the Property Tax Replacement PILT was Intended to be, Schools and** 127 **Communities Suffer**

128 WHEREAS, Utah has been disadvantaged for decades in the funding of education and
129 essential government services because the PILT payments have never been adjusted to
130 reflect the tax equivalent value of the land retained by the federal government, as committed;

131 WHEREAS, one tragic result of this failure to honor the tax equivalent funding of PILT is that
132 Utah is perennially last in the nation in per-pupil funding for education;

133 WHEREAS, state and local governments with only a small percentage of federally controlled
134 lands fund education and health care and essential government services largely from
135 property taxes;

136 WHEREAS, as property values increase, education, healthcare, and essential government
137 services in states east of the Rockies automatically increases;

138 WHEREAS, by contrast, from 2012 to 2020, Utah has fallen from \$2 billion below average in
139 per-pupil funding for education to more than \$3.4 billion below average, despite allocating
140 100% all income tax revenues to education funding, because federal PILT payments do not
141 reflect, nor do they keep pace with, the tax equivalent value of federally controlled lands in
142 Utah;

143 WHEREAS, the ability to fund a fair opportunity for a quality education is vital to the
144 economic growth of a community and a state;

145 WHEREAS, the ability to fund healthcare and essential government services is critical for
146 economic growth;

147 **Utah’s Federal Land Valuation Model Reveals PILT Payments Are Orders of Magnitude** 148 **Lower Than Property Tax Equivalent Amounts**

149 WHEREAS, the Federal Land Valuation Model, which was unanimously commissioned by
150 the Utah Legislature pursuant to HB357 (2018) and HCR19 (2018), was presented to the
151 Federalism Commission on May 22, 2020;

152 WHEREAS, in contrast to the nearly \$41 million in PILT payments to Utah in 2019, the

WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

153 property tax equivalent amount the federal government should have paid, even assuming the
154 lowest taxable values, is more than \$534 million a year;

155 WHEREAS, according to the Federal Land Valuation Model analysis, there are more than
156 217,000 acres of USFS and BLM lands entirely inside the boundaries of the 249 cities and
157 towns in Utah (hereafter “in-held federal lands”);

158 WHEREAS, the 2019 federal PILT payments to Utah associated with these 217,000 acres of
159 in-held federal lands were approximately \$505,000;

160 WHEREAS, the unimproved property tax equivalent amount for these 217,000 acres of
161 in-held federal lands is more than \$131 million, or 259 times greater than the PILT payments;

162 WHEREAS, according to the Federal Land Valuation Model analysis, there are more than
163 658,000 acres of USFS and BLM lands within one mile of Utah city boundaries, inclusive of
164 the in-held federal lands;

165 WHEREAS, the 2019 federal PILT payments to Utah associated with these 658,000 acres of
166 federal lands within one mile of Utah city boundaries were approximately \$1.4 million;

167 WHEREAS, the unimproved property tax equivalent amount for these 658,000 acres of
168 federal lands within one mile of Utah city boundaries is more than \$358 million, or 255 times
169 greater than the PILT payments;

170 **The Federal Land Valuation Model Enables Timely Policy Maker-Driven Valuation** 171 **Scenarios and Assumptions**

172 WHEREAS, until recently, neither the federal government nor the state of Utah had the
173 technological capability of assessing the value of millions of acres of unique land, in a timely
174 manner;

175 WHEREAS, the development of this Federal Land Valuation Model ushers in a new era of
176 data-driven valuation of federal land making it now practical for the federal government to
177 pay the tax equivalent amount for PILT, which was the original intention of the PILT program;

178 WHEREAS, the Federal Land Valuation Model enables policy makers to review and analyze
179 numerous valuation scenarios and assumptions based on such factors as zoning and land
180 use, neighboring use, improvements, resource management plans, proximity to inhabited
181 areas, soils and topography, and economic and market conditions;

182 **The Utah Legislature Is Committed to Increasing Public Education Funding from**

WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

183 **Increased Public Land Revenues**

184 WHEREAS, in HJR8 (2017), the Utah Legislature formalized its commitment to increase
185 education funding from the net proceeds of any new sources of revenue associated with
186 fairer public land treatment acknowledging that “revenue invested in public schools is an
187 investment in Utah’s children and future economic success”;

188 **The Utah Legislature is Committed to Utah as a Premier Public Land State**

189 WHEREAS, as set forth in HJR17 (2019), the Utah Legislature has repeatedly affirmed its
190 commitment that “the state of Utah is a premier public lands state and is committed to
191 remaining a public lands state”;

192 **The Property Tax Burden of Federally Retained Public Lands Must be Born By the** 193 **Public Nationally, As Committed**

194 WHEREAS, Utah agrees with the Commission Report that “it is the obligation of the United
195 States to make certain that the burden of that [federal land retention] policy is spread among
196 all the people of the United States and is not borne only by those states and governments in
197 whose area the lands are located. Therefore, the Federal Government should make
198 payments to compensate state and local governments for the tax immunity of Federal lands,”
199 on a tax equivalent basis;

200 **Honoring the Federal Commitment to Pay the Tax Equivalent Amount for PILT Is the** 201 **most Effective Short- and Long-Term COVID-19 Stimulus for Utah’s Children and** 202 **Communities**

203 WHEREAS, the state of Utah is grateful for the desire, and the swift action, of the Congress
204 and the President to provide stimulus to people, businesses, and communities impacted by
205 the COVID-19 pandemic; and

206 WHEREAS, the Legislature of the State of Utah, the governor concurring therein, respectfully
207 asserts, in the most strenuous terms, that honoring the decades-old commitment to pay PILT
208 on a property tax equivalent basis will be the most effective short- and long-term stimulus the
209 federal government can provide to counties and states hindered from generating property tax
210 revenues to fund education and essential government services:

211 NOW, THEREFORE, BE IT RESOLVED THAT the Legislature of the State of Utah, the
212 Governor concurring therein, calls upon the Congress of the United States, the President of

WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

213 the United States, and the Vice President of the United States, also in his capacity as chair of
214 the White House Corona Virus Task Force, to make the Payments In Lieu of Taxes (PILT)
215 for 2020, and henceforth, on a full property tax equivalent basis, as committed at the
216 inception of the PILT program, as follows:

- 217 • The more than 658,000 acres of federally managed lands inside of and within one mile
218 of Utah city boundaries at the unimproved tax equivalent amount of \$358 million;
- 219 • The balance of the nearly 33 million acres of federally managed lands in Utah at the
220 lowest unimproved tax equivalent amount of \$176 million; and
- 221 • For a total 2020 PILT payment of \$534 million.

222 BE IT FURTHER RESOLVED in light of the economic exigencies Utah faces resulting from
223 the ravages of the COVID-19 pandemic, the Legislature of the State of Utah, the Governor
224 concurring therein, calls upon the Congress of the United States, the President of the United
225 States, and the relevant administrative agencies, to collaborate in a timely and good faith
226 manner with Utah's state and local leaders on community and economic diversification
227 planning with the small fraction of federally managed lands within and in close proximity to
228 Utah city boundaries, after the pattern already established by the Southern Nevada Public
229 Lands Management Act, in accordance with the legislative intentions for the Federal Land
230 Policy and Management Act to **“facilitate planning and more orderly urban growth, get**
231 **public lands needed for development onto the tax rolls more quickly, return a fair**
232 **value to the U.S. Treasury, and reduce the administrative cost** of disposal to the Federal
233 Government.” (Report to the President and the Congress by the Public Land Law Review
234 Commission, June 1970).

235 BE IT FURTHER RESOLVED that the Legislature of the State of Utah, the Governor
236 concurring therein, call upon the Congress of the United States, the President of the United
237 States, and the relevant administrative agencies, to cooperate in good faith, with time being
238 of the essence, to agree upon valuation assumptions for the highest and best use to which
239 lands within and around Utah's cities might have been deployed were Utah communities
240 afforded the basic right of economic diversification and development to improve their tax
241 base, and to account for the full property tax equivalent amounts for PILT payments going
242 forward.

243 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the

WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

244 United States, the Vice President of the United States, the Majority and Minority Leader of
245 the United States Senate, The Speaker of the house and Minority Leader of the United
246 States House of Representatives, to each member of the Utah congressional delegation, to
247 the Governors, Senate Presidents, and Speakers of the House of every state with more than
248 20% federally controlled lands, to the county governing council and executive of every county
249 with more than 20% federally controlled lands, and to the National Association of Counties.
250