

29 of Representatives and to report to the Legislature;

30 ▶ urges Utah's Attorney General to look to all controlling and persuasive federal and
31 state constitutional, statutory, and case authorities, including but not limited to
32 Article I, Section 27 of the Utah Constitution, in order to develop arguments under
33 existing law and, if necessary, develop nonfrivolous arguments for the extension,
34 modification, or reversal of existing law or the establishment of new law;

35 ▶ provides investigative considerations for use by the Attorney General in the conduct
36 of the investigation; and

37 ▶ urges the Utah Constitutional Defense Council to participate in the investigation.

38 **Special Clauses:**

39 None



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

42 WHEREAS, the Utah Enabling Act is a compact between the Senate and House of
43 Representatives of the United States of America and the inhabitants of the Territory of Utah;

44 WHEREAS, the state of Utah was admitted under the Utah Enabling Act "on an equal
45 footing with the original states";

46 WHEREAS, equal footing is defined as cited in *United States v. Texas*, 339 U.S. 707,
47 1950, as equality of political rights and sovereignty;

48 WHEREAS, the original states declared themselves sovereign and independent
49 according to the limits of their respective territories;

50 WHEREAS, this territorial sovereignty was in no way diminished or subordinated to
51 the legislative authority of Congress under the Constitution;

52 WHEREAS, the sovereignty of a state cannot exist without a territorial domain upon
53 which it is to act as cited in *Green v. Biddle*, 21 U.S. 1, 1821;

54 WHEREAS, the people of the original states did reserve to themselves the right to
55 exercise sovereign municipal governance, or political rights, throughout the limits of their
56 territory;

57 WHEREAS, Sec. 3 of the Utah Enabling Act requires that until the title to the
58 unappropriated public lands lying within the limits of the state shall have been extinguished by
59 the United States, the same shall be and remain subject to the disposition of the United States;

60 WHEREAS, upon admission of the state of Utah as a member of the American
61 confederacy on an equal footing with the original states, the laws of the former territory and the
62 new state are to be in full force and effect in the state and the laws of the United States are to
63 have "the same force and effect within the said State as elsewhere within the United States";

64 WHEREAS, the United States does today assert complete legislative jurisdiction
65 without limitation over approximately 67% of the state which remains public domain;

66 WHEREAS, this legislative jurisdiction is asserted under authority of the constitutional
67 supremacy clause, thereby extinguishing every state legislative act thereon at the will of
68 Congress;

69 WHEREAS, the scope of federal governmental power over the public lands of the state
70 of Utah is demonstrated by the fact that, under current federal law, federal officers may search
71 and seize both persons and property without warrant or process upon the public domain
72 notwithstanding the constitutional safeguard against unwarranted search and seizure;

73 WHEREAS, Congress has proclaimed that, as of October 21, 1976, it is federal policy
74 that the public lands be retained in federal ownership, which denies to the schools of the state
75 of Utah that 5% of proceeds of sale to which they are entitled under Sec. 9 of the Utah
76 Enabling Act;

77 WHEREAS, the Senate and House of Representatives of the United States stand in
78 material breach of certain terms of the Utah Enabling Act with the inhabitants of the state of
79 Utah;

80 WHEREAS, since the state of Utah is denied sovereign governance upon public lands
81 within its borders, it is denied equal footing with the original states;

82 WHEREAS, since the people of the state of Utah are denied the right to form and to
83 administer a government upon that portion of territory otherwise committed to them for the
84 purposes of their state by terms of their enabling Act compact with the United States, but which
85 remains under complete federal legislative jurisdiction, the people are also denied their
86 political rights;

87 WHEREAS, denial of political rights is tantamount to denial of republican self
88 governance, including local law enforcement, as guaranteed under Article IV, Section 4 of the
89 United States Constitution;

90 WHEREAS, since statehood is defined as "people, territory, and governance," the

91 people of the state of Utah are denied statehood upon the 67% of the state which remains
92 subject to federal territorial governance in the form of complete, unlimited, and supreme
93 federal legislative jurisdiction;

94 WHEREAS, by retaining the public lands of the state of Utah in federal ownership,
95 Congress denies its trust obligation under the Utah Enabling Act compact to maintain these
96 lands subject to disposition; and

97 WHEREAS, material breach of specific and binding terms of the Utah Enabling Act
98 compact by Congress has resulted in the violation of provisions of Article IV, Sections 3 and 4
99 of the United States Constitution:

100 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah urge
101 the Utah Attorney General to immediately commence an investigation into these apparent
102 breaches of trust and constitutional violations and that he report to the Legislature on the
103 progress of the investigation.

104 BE IT FURTHER RESOLVED that the Legislature urge the Attorney General to look
105 to all controlling and persuasive federal and state constitutional, statutory, and case authorities,
106 including but not limited to Article I, Section 27 of the Utah Constitution, which states
107 "Frequent recurrence to fundamental principles is essential to the security of individual rights
108 and the perpetuity of free government" and develop arguments under existing law and, if
109 necessary, develop nonfrivolous arguments for the extension, modification, or reversal of
110 existing law or the establishment of new law, in order to advise and recommend possible legal
111 action for the redress of any breaches of trust or constitutional violations which the Attorney
112 General finds as a result of this investigation.

113 BE IT FURTHER RESOLVED that the Legislature urge the Attorney General to
114 remain cognizant of the fact that the precedential value of cases and commentators tends to
115 increase in proportion to their proximity to the adoption of the Constitution, the Bill of Rights,
116 or any other amendments.

117 BE IT FURTHER RESOLVED that the Legislature strongly urge that the Utah
118 Constitutional Defense Council participate in this investigation.

119 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah
120 Attorney General, the Utah Constitutional Defense Council, the Majority Leader of the United
121 States Senate, and the Speaker of the United States House of Representatives.