

1 **SELECTIONS OF UNAPPROPRIATED FEDERAL LANDS**

2 **JOINT RESOLUTION**

3 2011 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Roger E. Barrus**

6 Senate Sponsor: Scott K. Jenkins

7

8 **LONG TITLE**

9 **General Description:**

10 This joint resolution of the Legislature urges Congress to adopt legislation authorizing
11 Western States to make selections of public land within their borders under certain
12 circumstances.

13 **Highlighted Provisions:**

14 This resolution urges Congress to adopt legislation authorizing Western States to make
15 selections of public land within their borders in lieu of receiving 5% of the proceeds of
16 the sale of public land lying within the state as provided by certain states' enabling acts.

17 **Special Clauses:**

18 None

19

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

21 WHEREAS, for purposes of this resolution:

22 (1) "Federally owned land" means all land held in the name of the United States or any
23 agency of the United States, including land held in trust, United States military reservations,
24 Indian reservations, and any other land used for federal purposes.

25 (2) (a) "Unappropriated public lands" means all land under the management and
26 control of the Bureau of Land Management or United States Forest Service.

27 (b) "Unappropriated public lands" do not include lands which are:

28 (i) held in trust;

29 (ii) located within a United States military reservation;

- 30 (iii) a unit of the National Park System;
- 31 (iv) a Wildlife Refuge;
- 32 (v) a Wilderness Area designated by Congress; or
- 33 (vi) a National Historic Site.

34 (3) "Western States" means Alaska, Arizona, California, Colorado, Hawaii, Idaho,
35 Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming.

36 WHEREAS, Western States, as a group, are falling behind in education funding as
37 measured from 1979 to 2007 by growth of real per pupil expenditures of 56% compared to
38 92% in the remaining states;

39 WHEREAS, 11 of the 17 states with the lowest real growth in per pupil expenditures
40 are Western States;

41 WHEREAS, one effect of less funding for public education in the West is higher
42 pupil-per-teacher ratios;

43 WHEREAS, nine of the 12 states with the largest pupil-per-teacher ratios are Western
44 States;

45 WHEREAS, on average, the 13 Western States have 3.7 more students per classroom
46 than the remaining 37 states;

47 WHEREAS, between 2012 and 2018, the rate of enrollment growth in Western States is
48 projected to increase 9%, while the rate of enrollment growth in other states is projected to
49 increase by only 3.3%;

50 WHEREAS, state and local taxes of Western States, as a percentage of personal
51 income, are as high as or higher than other states;

52 WHEREAS, despite the fact that Western States tax at a comparable rate and allocate
53 nearly as much of their budgets to public education as other states, Western States have lower
54 real growth in per pupil expenditures and have higher pupil-per-teacher ratios;

55 WHEREAS, the federal government is the source of and has the potential to solve the
56 problem because of the enormous amount of federally owned land in Western States;

57 WHEREAS, all states east of an imaginary vertical line from Montana to New Mexico

58 have, on average, 4.1% of their land federally owned, while the Western States on average have
59 51.9% of their land federally owned;

60 WHEREAS, many of the Acts enabling the people of American West territories to form
61 their constitutions and state governments and providing for the admission of those states into
62 the Union on equal footing with the original states, included a common provision of which the
63 following example is typical: "That five per centum of the proceeds of the sales of public land
64 lying within said state, which shall be sold by the United States subsequent to the admission of
65 said State into the Union, after deducting all the expenses incident to the same, shall be paid to
66 the said state, to be used as a permanent fund, the interest of which only shall be expended for
67 the support of the common schools within said state.";

68 WHEREAS, the plain language of these enabling acts proclaims that the public land
69 shall be sold by the United States subsequent to the admission of the states into the Union;

70 WHEREAS, the United States honored this language by selling public land within the
71 Western States until the passage of the Federal Land Policy and Management Act of 1976,
72 wherein Congress declared that the policy of the United States was to retain public land in
73 federal ownership and management;

74 WHEREAS, the United States has broken its solemn compact with the Western States
75 and breached its fiduciary duty to the school children who are designated beneficiaries of the
76 sale of public land under the terms of the respective enabling Acts of many Western States;

77 WHEREAS, the current shortfall in funding public education in the Western States
78 requires immediate Congressional action to remedy this discriminatory federal land policy and
79 prevent the further disadvantaging of the school children of the Western States; and

80 WHEREAS, the most efficient and cost effective remedy now available to the United
81 States is to grant to the Western States 5% of the remaining federally owned land located
82 within each state and authorize each state to select land from the unappropriated public land of
83 the United States within the boundaries of each state to satisfy the grant:

84 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah
85 urges Congress to adopt legislation that would include the following provisions:

86 (1) instead of receiving, for the support of the common schools, 5% of the proceeds of
87 the sales of federally owned land lying within the Western States which have not been sold by
88 the United States, grants of land will be made to each Western State in the amount of land
89 equal to 5% of the number of acres of federally owned land within the state;

90 (2) each Western State shall select from the unappropriated public lands within the
91 borders of the state in a manner determined by the legislature of the state, land equal in acreage
92 to 5% of the federally owned land in the state;

93 (3) selection and transfer of land to Western States shall not be considered a major
94 federal action for the purposes of section 102(2)(C) of the National Environmental Policy Act
95 of 1969;

96 (4) (a) all mineral, oil, and gas rights to the land selected by the Western States shall
97 become the property of that Western State unless the federal lessee of the selected land is
98 making royalty payments to the United States from production of minerals, oil, or gas, in which
99 case that leasehold interest shall remain in the ownership of the United States until the
100 leasehold interest terminates; and

101 (b) after the leasehold interest described in Subsection (4)(a) terminates, the mineral,
102 oil, and gas rights shall become the property of the respective Western State;

103 (5) all land selected by each of the Western States shall be held in trust by a state
104 educational agency empowered to sell or lease the land, the proceeds of which shall be used as
105 a permanent fund, the interest of which shall be expended only for the support of public
106 education; and

107 (6) Utah fully and unconditionally reserves all sovereign and constitutional claims to
108 its public lands.

109 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority
110 leader of the United States Senate, the Speaker of the United States House of Representatives,
111 the President of the United States, and Utah's Congressional Delegation.