

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

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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

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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.