

Representative Keven J. Stratton proposes the following substitute bill:

CONCURRENT RESOLUTION ON UTAH PUBLIC LANDS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This concurrent resolution encourages the pursuit of legal action establishing state sovereignty and equal footing, which would lead to the state obtaining control of federal public lands within the state of Utah.

Highlighted Provisions:

This resolution:

- ▶ acknowledges the constitutional arguments that provide the basis to bring suit against the federal government to obtain control over federal public lands within Utah; and
- ▶ encourages asserting a cause of action, in the absence of legislative progress, with the United States Supreme Court under the Court's original jurisdiction of conflicts between the states and the United States.

Special Clauses:

None

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

WHEREAS, the equal sovereignty principle requires that all states in the federal system be equal in sovereignty with one another;



26 WHEREAS, this equal sovereignty doctrine argues that states admitted after the
27 original 13 receive the same sovereign rights enjoyed by the original states in relation to the
28 land within their borders;

29 WHEREAS, the legal theory known as the compact theory is based on the compact
30 made between Congress and the newly admitted states that the new states would, over time,
31 receive control over all the land within their borders, bringing them to sovereign equality with
32 the original states;

33 WHEREAS, an independent legal analysis commissioned by the Legislature that, based
34 on the legal principles explained above, an argument exists upon which Utah could bring suit
35 against the federal government to obtain dominion over federal public lands within the state;

36 WHEREAS, according to these arguments, the federal government has breached its
37 admission compact with the state of Utah and has failed to allow Utah dominion over the land
38 within its borders as promised upon admission;

39 WHEREAS, as a result of this asserted breach, Utah does not enjoy the same control of
40 lands and resources within its borders as do the states that do have dominion over the land
41 within their borders;

42 WHEREAS, the asserted denial of these equal sovereign rights to Utah by the federal
43 government prevents Utah from making necessary and desirable public improvements in large
44 portions of the state and growing, in those areas, the economy to its full potential;

45 WHEREAS, to remedy this asserted denial of equal sovereign rights, the Legislature
46 passed, and the Governor signed into law, the Transfer of Public Lands Act, which demanded
47 that the federal government extinguish title to certain federal lands within the borders of Utah
48 and transfer those lands to the state of Utah;

49 WHEREAS, the Transfer of Public Lands Act is the official law and policy of the state
50 of Utah;

51 WHEREAS, the federal government has refused to honor the policy of the state of Utah
52 as represented in the Transfer of Public Lands Act;

53 WHEREAS, the federal government is unable to adequately manage its public lands;

54 WHEREAS, the state of Utah is regularly regarded as one of the best-managed states in
55 the country and, because of this proven track record, seeks to obtain control over certain
56 federally controlled public lands within its borders; and

57 WHEREAS, by managing the public lands in Utah, the state could ensure appropriate
58 conservation, increase public access, encourage multiple use, grow economic opportunities,
59 and sustain proper land management:

60 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the
61 Governor concurring therein, strongly encourages the pursuit of all legislative and legal efforts
62 to secure the transfer and control of public lands within the state of Utah to the state of Utah in
63 accordance with Utah Code Title 63L, Chapter 6, Transfer of Public Lands Act.

64 BE IT FURTHER RESOLVED that, in the absence of satisfactory legislative progress,
65 the state of Utah will pursue a methodical, provident, effective, and appropriate approach to
66 assert any appropriate cause of action in the appropriate form, no later than December 1, 2017.

67 BE IT FURTHER RESOLVED that a copy of this resolution be sent to Utah's
68 congressional delegation.