

Representative Keven J. Stratton proposes the following substitute bill:

**CONCURRENT RESOLUTION OPPOSING UNILATERAL USE
OF THE ANTIQUITIES ACT**

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses strong opposition to the designation of a new national monument in the state.

Highlighted Provisions:

This resolution:

- ▶ expresses strong opposition to the President of the United States establishing a new national monument in the state under the Antiquities Act; and
- ▶ states that the disparate impact the federal land takeover has on Utah is unconstitutional and violates the equal sovereignty principle.

Special Clauses:

None

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

WHEREAS, the Legislature has a legitimate basis to believe that President Obama is considering issuing a proclamation under the Antiquities Act designating one or more national monuments within the borders of the state of Utah before the end of his term as President of the United States;



26 WHEREAS, the Legislature has a legitimate basis to believe that one of the national
27 monuments being considered may be nearly 1.9 million acres in size;

28 WHEREAS, the state of Utah is already home to the Grand Staircase-Escalante
29 National Monument designated by President Clinton, which placed 1,880,461 acres, or 2,938
30 square miles, of land within the borders of Utah under protected status, greatly restricting its
31 use by local individuals, all without the consent of the Legislature of the state of Utah;

32 WHEREAS, the Grand Staircase-Escalante National Monument is over two times the
33 size of the state of Rhode Island;

34 WHEREAS, an additional national monument designation within the borders of the
35 state will have the effect of further restricting the public's access and enjoyment of lands in
36 Utah without the consent of the Governor or the Legislature;

37 WHEREAS, it is unlikely that our Framers, as evidenced by their inspired and carefully
38 crafted constitutional design to balance power and responsibilities between branches of
39 government and between the national and state governments, ever intended to grant the
40 executive branch unilateral authority to set aside vast swaths of land within the borders of a
41 state without input from Congress or locally elected representatives;

42 WHEREAS, on March 7, 2013, in her confirmation hearing to be Secretary of the
43 Interior, Sally Jewell committed to Senator Mike Lee that gaining local support for a national
44 monument should be a prerequisite for national monument designations under the Antiquities
45 Act;

46 WHEREAS, over the past three years, Secretary Jewell has repeatedly made reference
47 to the importance of local buy-in, including local meetings, input, and public hearings before a
48 national monument designation;

49 WHEREAS, on Wednesday, February 24, 2016, in a House Natural Resources
50 Committee discussion with Secretary Jewell, Chairman Rob Bishop noted that during each of
51 President Obama's previous national monument declarations, at least one member of that state's
52 congressional delegation supported a national monument declaration;

53 WHEREAS, Chairman Bishop went on to note that not one single member of Utah's
54 congressional delegation supports another national monument declaration in Utah under the
55 Antiquities Act;

56 WHEREAS, on February 23, 2016, in her response to Senator Lee in a hearing before

57 the Senate Committee on Energy and Natural Resources, Secretary Jewell remained
58 non-committal regarding working with Utah's Governor, federal delegation, and local elected
59 officials, and stated in reference to concerns about a potential new national monument
60 designation in southeastern Utah: "Well, to be clear, I can't commit to anything with regard to
61 the Antiquities Act because that is a tool of the president of the United States. I will commit
62 that we will go out and spend time within the community and take input from the community.
63 That is something that we have done every time and we will continue to do that.";

64 WHEREAS, as of March 2016, that process of taking input from local communities has
65 not occurred in Utah;

66 WHEREAS, the Legislature of the state of Utah hereby goes on record as not only
67 withholding its consent to the establishment of any proposed new national monuments without
68 state legislative approval, but emphatically objecting to the establishment of the same;

69 WHEREAS, Governor Gary R. Herbert has written to the President of the United States
70 twice -- in August 2015 and in February 2016 -- urging him not to use the Antiquities Act to
71 designate another national monument in Utah;

72 WHEREAS, Governor Herbert noted that another monument designation in Utah
73 would "inflame passion, spur divisiveness, and ensure perpetual opposition";

74 WHEREAS, the system of having federal bureaucrats over a thousand miles away
75 govern land in Utah is contrary to the dual sovereignty design of our federal republic, which
76 protects individual liberty by diffusing sovereign power so that no single sovereign can become
77 tyrannical, controlling all aspects of our lives;

78 WHEREAS, decisions regarding the health, safety, and welfare -- the "police power" --
79 of citizens are, under our federal system, properly placed with local governments more
80 accountable to the citizens, not with unelected, unaccountable federal bureaucrats;

81 WHEREAS, over 66.5% of the land within the sovereign state of Utah is already
82 controlled by the federal government, unlike 38 states in the Union which enjoy dominion over
83 almost all the land within their borders;

84 WHEREAS, the sovereignty of the state of Utah is already negatively impacted by this
85 vast federal control and territory -- larger than the entire state of New York -- within its
86 borders, placing its citizens' rights and liberties at jeopardy;

87 WHEREAS, the use of the Antiquities Act in recent years by presidents to designate

88 millions of acres of land as national monuments disparately impacts western states, including
89 Utah, because only western states have large areas of federal land remaining within their
90 borders;

91 WHEREAS, this disparate impact on Utah and other western states is unconstitutional
92 and violates the equal sovereignty principle and equal footing doctrine;

93 WHEREAS, two western states -- Wyoming and Alaska -- received special exemptions
94 from the Antiquities Act in 1950 and 1980, respectively, after the Act was used extensively
95 within the boundaries of those two states; and

96 WHEREAS, Utah is already the home to seven national monuments and should be
97 considered for an exemption from the Antiquities Act, like Wyoming and Alaska:

98 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the
99 Governor concurring therein, expresses strong opposition to the creation of any new national
100 monuments within the state by the President of the United States without state legislative
101 approval.

102 BE IT FURTHER RESOLVED that the Legislature and Governor encourage Congress
103 to amend the Antiquities Act to prevent President Obama and future presidents from
104 unilaterally designating enormous amounts of land within a sovereign state, Utah in particular,
105 as a national monument without state legislative approval.

106 BE IT FURTHER RESOLVED that the Legislature and Governor encourage Attorney
107 General Sean Reyes to research the authority of the President of the United States to designate
108 a proposed national monument within the borders of the state of Utah without state legislative
109 approval.

110 BE IT FURTHER RESOLVED that the Legislature and the Governor encourage
111 Attorney General Sean Reyes to research and explore all legal options available to the state
112 regarding unilateral national monument designations.

113 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of
114 the United States, the members of Utah's congressional delegation, and Attorney General Sean
115 Reyes.