

1 **JOINT RESOLUTION ON WATER INFRASTRUCTURE**

2 **TRANSFER**

3 2016 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Mike K. McKell**

6 Senate Sponsor: _____

7

8 **LONG TITLE**

9 **General Description:**

10 This joint resolution of the Legislature urges Utah's congressional delegation to support
11 the efforts of Utah water users organizations to secure title transfer of project works and
12 project water rights free from terms and conditions that were not contemplated at the
13 time of the repayment contracts.

14 **Highlighted Provisions:**

15 This resolution:

16 ▶ calls upon Utah's congressional delegation to support Utah water users
17 organizations that have repaid, or wish to repay, reclamation projects to secure title
18 transfer of project works and project water rights free from terms and conditions
19 that were not contemplated at the time of the repayment contracts.

20 **Special Clauses:**

21 None

22

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

24 WHEREAS, Utah Code Subsection 73-1-1(1) states, "All waters in this state, whether
25 above or under the ground, are hereby declared to be the property of the public, subject to all
26 existing rights to the use thereof";

27 WHEREAS, California v. United States, 438 U.S. 645, 653 (1978), states that, "The



28 history of the relationship between the Federal Government and the States in the reclamation of
29 the arid lands of the Western States is both long and involved, but through it runs the consistent
30 thread of purposeful and continued deference to state water law by Congress";

31 WHEREAS, pursuant to Section 8 of the Reclamation Act of 1902, state law governs
32 the distribution of water from a reclamation project, except as expressly stated by Congress;

33 WHEREAS, water rights for reclamation projects were acquired pursuant to state law;

34 WHEREAS, Utah Code Section 73-1-3 states, "Beneficial use shall be the basis, the
35 measure and the limit of all rights to the use of water in this state";

36 WHEREAS, the future of the state of Utah depends upon the proper and economical
37 administration of water rights and the proper and economical distribution and use of water;

38 WHEREAS, water rights can be best and most economically administered by the water
39 users organizations that are subject to state law and most accountable to the local water users;

40 WHEREAS, the United States Congress has always anticipated that, upon repayment,
41 reclamation projects would be transferred to the water users organization responsible for
42 repayment;

43 WHEREAS, water users organizations in Utah have sought, are seeking, and will
44 continue to seek title transfer of water projects from Congress, including title to the Strawberry
45 Valley Project, the Moon Lake Project, and the Emery County Project;

46 WHEREAS, transferring title to the Strawberry Valley, Moon Lake, and Emery County
47 water projects to the appropriate water users organizations in Utah, including clearing the title
48 to water rights from the nominal interest of the United States, will facilitate the proper and
49 economical administration of water rights and the proper and economical distribution of water
50 as contemplated by the Legislature of the state of Utah and Congress; and

51 WHEREAS, in the past, proposed title transfer acts have presented an opportunity for
52 those not party to reclamation repayment contracts to attempt to impose terms and conditions
53 on a title transfer that were not contemplated when repayment contracts were signed:

54 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah calls
55 upon Utah's congressional delegation to support water users organizations that have repaid or
56 wish to repay reclamation projects to secure title transfer of project works and project water
57 rights, free from terms and conditions that were not contemplated at the time of the repayment
58 contracts.

59 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority
60 Leader of the United States Senate, the Speaker of the United States House of Representatives,
61 the United States Bureau of Reclamation, the Utah Water Users Association, the Utah
62 Department of Natural Resources, the State Engineer, and the members of Utah's congressional
63 delegation.

Legislative Review Note
Office of Legislative Research and General Counsel