

1 **CONCURRENT RESOLUTION ON PUBLIC LANDS**

2 **LITIGATION**

3 2017 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Keven J. Stratton**

6 Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

8 **Committee Note:**

9 The Commission for the Stewardship of Public Lands recommended this bill.

10 **General Description:**

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

14 **Highlighted Provisions:**

15 This resolution:

16 ▶ acknowledges the constitutional arguments that provide the basis to bring suit  
17 against the federal government to obtain control over federal public lands within  
18 Utah; and

19 ▶ encourages asserting a cause of action, in the absence of legislative progress, with  
20 the United States Supreme Court under the Court's original jurisdiction of conflicts  
21 between the states and the United States.

22 **Special Clauses:**

23 None

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

25 WHEREAS, the equal sovereignty principle requires that all states in the federal system



28 be equal in sovereignty with one another;

29 WHEREAS, the equal footing doctrine requires that states admitted after the original 13  
30 receive the same sovereign rights enjoyed by the original states;

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

34 WHEREAS, an independent legal analysis has determined that, based on the legal  
35 principles explained above, a valid constitutional basis exists upon which Utah could bring suit  
36 against the federal government to obtain dominion over federal public lands within the state;

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

40 WHEREAS, as a result of this breach, Utah does not in fact enjoy equal sovereignty  
41 with the states in the federal system that do have dominion over the land within their borders,  
42 and was not admitted to the Union on an equal footing with the original 13 states;

43 WHEREAS, because Utah is treated as less than a fully sovereign state by the federal  
44 government, the citizens of Utah are denied equal rights when compared to citizens of fully  
45 sovereign states;

46 WHEREAS, the denial of equal sovereign rights to Utah by the federal government  
47 prevents Utah from making necessary and desirable public improvements and growing its  
48 economy to its full potential, the way fully sovereign states can;

49 WHEREAS, this denies the citizens of Utah jobs and economic prosperity they would  
50 otherwise enjoy;

51 WHEREAS, since Utah cannot enjoy growth and prosperity on an equal basis with fully  
52 sovereign states, the state is also denied equal opportunity for political representation in the  
53 federal House of Representatives and Electoral College, which is based upon population as  
54 measured by the decennial census;

55 WHEREAS, to remedy this unequal status, which is intolerable to the citizens of Utah  
56 and their elected representatives, the Legislature passed, and the Governor signed into law, the  
57 Transfer of Public Lands Act, which demanded that the federal government extinguish title to  
58 certain federal lands within the borders of Utah and transfer those lands to the state of Utah;

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

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

63 WHEREAS, the federal government is unable to adequately manage its public lands,  
64 and continues to lose money in its land management efforts;

65 WHEREAS, the state of Utah is regularly regarded as one of the best-managed states in  
66 the country and, because of this proven track record, seeks to obtain control over certain  
67 federally owned public land within its borders; and

68 WHEREAS, by obtaining control of federal land in Utah, the state could ensure  
69 appropriate conservation, secure public access, encourage multiple use, grow the economy, and  
70 sustain proper land management:

71 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the  
72 Governor concurring therein, strongly encourages appropriate executive branch agencies to  
73 pursue all means of legislative and legal efforts to secure the transfer and control of public  
74 lands within the state of Utah to the state of Utah in accordance with Utah Code, Title 63L,  
75 Chapter 6, Transfer of Public Lands Act.

76 BE IT FURTHER RESOLVED that, in the absence of satisfactory legislative progress,  
77 the Legislature and the Governor demand a methodical, provident, effective, and appropriate  
78 approach to assert a cause of action with the United States Supreme Court under the Court's  
79 original jurisdiction of conflicts between the states and the United States no later than  
80 December 1, 2017.

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

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**