

Representative Keven J. Stratton proposes the following substitute bill:

**CONCURRENT RESOLUTION TO SECURE THE PERPETUAL
HEALTH AND VITALITY OF UTAH'S PUBLIC LANDS
AND ITS STATUS AS A PREMIER PUBLIC LANDS STATE**

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: _____

LONG TITLE

General Description:

This concurrent resolution recognizes the state's commitment to remaining a public lands state and encourages the pursuit of federal executive and legislative action, and if needed, legal action to establish state sovereignty and equal footing, which would lead to the state obtaining control of public lands within the state of Utah.

Highlighted Provisions:

This resolution:

- ▶ states that Utah is a premier public lands state and is committed to remaining a public lands state;
- ▶ asserts that local control of Utah's public lands would result in greater opportunities for outdoor recreation, including hunting, fishing, and access, as well as economic opportunities for rural Utah like responsible timber harvesting, mineral development, wind and solar energy harvesting, and livestock grazing;
- ▶ acknowledges the constitutional arguments that provide the basis to support executive, legislative, and judicial action to obtain control over public lands within Utah; and



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

29 **Special Clauses:**

30 None



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

33 WHEREAS, the state of Utah is a premier public lands state and is committed to
34 remaining a public lands state;

35 WHEREAS, Utah's public lands provide unique opportunities for outdoor recreation,
36 including skiing, camping, hunting, fishing, biking, rock climbing, and spelunking in addition
37 to economic opportunities like responsible timber harvesting, mineral development, wind and
38 solar energy harvesting, and livestock grazing;

39 WHEREAS, Utah's leaders are committed to the protection and improvement of public
40 lands, and the state's concern over federal management is not an issue of the public lands
41 themselves, but the unconstitutional alignment and structural failure of the federal government
42 to manage the public lands properly;

43 WHEREAS, federal mismanagement has provided Utah communities with increased air
44 pollution, dying forests, decimated wildlife, depressed economies, underfunded public
45 education, and blocked recreational opportunities;

46 WHEREAS, the state of Utah seeks management and control over the public lands not
47 to sell them off to the highest bidder, but to protect them in the way they always should have
48 been protected;

49 WHEREAS, the Legislature has shown its commitment by passing a comprehensive
50 package of laws to care for the public lands, including the Wilderness Act (Title 63L, Chapter
51 7) and the Utah Public Lands Management Act (Title 63L, Chapter 8)--the only two pieces of
52 state legislation of their kind in the nation and which clearly explain how the state intends to
53 manage and care for the public lands;

54 WHEREAS, if given the opportunity to manage the public lands within the state, Utah
55 is committed to:

- 56 • increasing public access for hunting, fishing, and outdoor recreation, as

57 well as increasing public herds of wildlife like elk, deer, bison, bighorn, moose, and mountain
58 goats;

59 • mitigating conflicts, when they occur, between ranching interests and
60 wildlife interests;

61 • increasing opportunities for ranching interests, while also ensuring
62 increased wildlife and sporting opportunities; and

63 • increasing economic opportunities for rural Utah communities;

64 WHEREAS, a comprehensive economic feasibility study has shown that the state is
65 capable of managing the public lands effectively;

66 WHEREAS, not only is the state committed to improving the way the public lands are
67 managed within the state, but also constitutional principles require that the state be given the
68 chance;

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

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

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

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

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

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

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

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

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

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

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

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

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

105 WHEREAS, the federal government is unable to adequately manage its public lands,
106 continues to lose money in its land management efforts, and produces negative consequences
107 for Utah's communities, as discussed above;

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

111 WHEREAS, by obtaining control of certain public lands in Utah, the state could ensure
112 appropriate conservation, secure public access, encourage multiple use, grow the economy, and
113 sustain proper land management:

114 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the
115 Governor concurring therein, strongly urges our federal executive agencies to do all that they
116 can to promote the transfer of control over Utah's public lands to state management.

117 BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge our
118 federal delegation and Congress to take necessary legislative steps to ensure the transfer of

119 control of Utah's public lands to state management.

120 BE IT FURTHER RESOLVED that, in the absence of satisfactory federal legislative
121 and executive progress, the Legislature and the Governor demand a methodical, provident,
122 effective, and appropriate approach to prepare to assert a cause of action with the United States
123 Supreme Court under the Court's original jurisdiction of conflicts between the states and the
124 United States no later than December 1, 2017.

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