

HCR001S01 compared with HCR001

~~{deleted text}~~ shows text that was in HCR001 but was deleted in HCR001S01.

Inserted text shows text that was not in HCR001 but was inserted into HCR001S01.

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Representative Keven J. Stratton proposes the following substitute bill:

CONCURRENT RESOLUTION ~~{ON PUBLIC LANDS~~
**LITIGATION} 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

~~{Committee Note:~~

~~_____The Commission for the Stewardship of Public Lands recommended this bill.~~

~~}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 ~~{establishing}~~ to establish state sovereignty and equal footing, which would lead to the state obtaining control of ~~{federal}~~ public lands within the state of Utah.

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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 ~~{bring suit against the federal government}~~ support executive, legislative, and judicial action 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 state of Utah is a premier public lands state and is committed to remaining a public lands state;

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

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

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

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

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

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

- increasing public access for hunting, fishing, and outdoor recreation, as well as increasing public herds of wildlife like elk, deer, bison, bighorn, moose, and mountain goats;
- mitigating conflicts, when they occur, between ranching interests and wildlife interests;
- increasing opportunities for ranching interests, while also ensuring increased wildlife and sporting opportunities; and
- increasing economic opportunities for rural Utah communities;

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

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

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

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

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

WHEREAS, an independent legal analysis has determined that, based on the legal

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principles explained above, a valid constitutional basis exists upon which Utah could bring suit against the federal government to obtain dominion over federal public lands within the state;

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

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

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

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

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

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

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

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, strongly ~~{encourages appropriate executive branch agencies to pursue all means of legislative and legal efforts to secure}~~urges our federal executive agencies to do all that they can to promote the transfer of control over Utah's public lands to state management.

BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge our federal delegation and Congress to take necessary legislative steps to ensure the transfer ~~{and}~~of control of Utah's public lands ~~{within the state of Utah to the state of Utah in accordance with Utah Code, Title 63L, Chapter 6, Transfer of Public Lands Act}~~to state management.

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

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

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Legislative Review Note

~~Office of Legislative Research and General Counsel~~