

Senator David P. Hinkins 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: David P. Hinkins

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, to prepare for potential legal action to encourage legislative progress that would lead to state management 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 management 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 development, and livestock grazing; and
- ▶ acknowledges the constitutional arguments that provide the basis to support executive, legislative, and judicial action to obtain management responsibility over public lands within Utah.



26 **Special Clauses:**

27 None



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

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

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

36 WHEREAS, Utah's leaders are focused on the protection and improvement of public
37 lands, and the state's concern over federal management is not an issue of the public lands
38 themselves or the good federal employees who work in this area, but the unconstitutional
39 alignment and structural failure of the federal government to manage the public lands properly;

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

43 WHEREAS, the state of Utah seeks management and responsibility over the public
44 lands not to sell them, but to protect them in the way they always should have been protected;

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

50 WHEREAS, if given the opportunity to manage the public lands within the state, Utah
51 is devoted to:

- 52 • increasing public access for hunting, fishing, and outdoor recreation, as
53 well as increasing public herds of wildlife like elk, deer, bison, bighorn,
54 moose, and mountain goats;
- 55 • mitigating conflicts, when they occur, between ranching interests and
56 wildlife interests;

57 • increasing opportunities for ranching interests, while also ensuring
58 increased wildlife and sporting opportunities; and

59 • increasing economic opportunities for rural Utah communities;

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

62 WHEREAS, not only is the state committed to improving the way the public lands are
63 managed within the state, but also constitutional principles require that willing states be
64 afforded the opportunity to do so;

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

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

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

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

75 WHEREAS, the federal government has breached its admission compact with the state
76 of Utah and has failed to honor Utah's right to dominion over the land within its borders as
77 promised upon admission;

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

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

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

87 WHEREAS, this denies the citizens of Utah jobs and economic prosperity they would

88 otherwise enjoy;

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

93 WHEREAS, to remedy this unequal status, which is intolerable to the citizens of Utah
94 and their elected representatives, the Legislature passed, and the Governor signed into law Title
95 63L, Chapter 6, Transfer of Public Lands Act, which demanded that the federal government
96 extinguish title to certain federal lands within the borders of Utah and transfer those lands to
97 the state of Utah;

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

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

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

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

108 WHEREAS, by obtaining management responsibility of certain public lands in Utah,
109 the state could ensure appropriate conservation, secure public access, encourage multiple use,
110 grow the economy, and sustain proper land management:

111 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the
112 Governor concurring therein, strongly urges all members of the Utah congressional delegation
113 to work in concert with Utah's legislative leadership and the Commission for the Stewardship
114 of Public Lands to draft and pass federal legislation creating a framework to transfer
115 management responsibility over certain public lands, as described in the Transfer of Public
116 Lands Act, to the state of Utah.

117 BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the
118 President of the United States, together with the United States Congress, to support all efforts

119 and actions necessary to draft, pass, and sign into law the federal legislative framework to
120 transfer management responsibility over certain public lands, as described in the Transfer of
121 Public Lands Act, to the state of Utah.

122 BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge all
123 local, state, and federal elected officials from within the state of Utah to use all available and
124 appropriate venues, platforms, associations, resources, and opportunities to educate colleagues,
125 associates, peers, and the general public regarding the structural challenges and failures of
126 federal management of certain public lands and the opportunities to improve education
127 funding, economic vitality within the state of Utah, and the health, vitality, use, and access of
128 certain public lands within the state of Utah through the transfer of certain public lands, as
129 described in the Transfer of Public Lands Act, to the State of Utah.

130 BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge, to
131 encourage legislative progress, the Utah Attorney General to continue to prepare and stand
132 ready to proceed with a methodical, provident, and constitutionally aligned strategy to assert a
133 cause of action with the United States Supreme Court to secure the transfer of certain public
134 lands, as described in the Transfer of Public Lands Act, to the state of Utah and further, in
135 acknowledgment of the independent responsibilities outlined in the Utah Constitution, request
136 that the Attorney General not file the complaint until further notice from the Utah Legislature
137 in support of proceeding to file.

138 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of
139 the United States, Utah's federal delegation, the Utah Attorney General, the State Board of
140 Education, local school boards within the state of Utah, county commissioners within the state
141 of Utah, and mayors and council members of all communities within the state of Utah.