

**Representative Keven J. Stratton** proposes the following substitute bill:

**CONCURRENT RESOLUTION OPPOSING UNILATERAL USE  
OF THE ANTIQUITIES ACT**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keven J. Stratton**

Senate Sponsor: David P. Hinkins

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**LONG TITLE**

**General Description:**

This concurrent resolution of the Legislature and the Governor expresses strong opposition to the designation of a new national monument in the state.

**Highlighted Provisions:**

This resolution:

- ▶ expresses strong opposition to the President of the United States establishing a new national monument in the state under the Antiquities Act; and
- ▶ states that the disparate impact the federal land takeover has on Utah is unconstitutional and violates the equal sovereignty principle.

**Special Clauses:**

None

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

WHEREAS, the Legislature has a legitimate basis to believe that President Obama is considering issuing a proclamation under the Antiquities Act designating one or more national monuments within the borders of the state of Utah before the end of his term as President of the United States;



26 WHEREAS, the Legislature has a legitimate basis to believe that one of the national  
27 monuments being considered may be nearly 1.9 million acres in size;

28 WHEREAS, the state of Utah is already home to the Grand Staircase-Escalante  
29 National Monument designated by President Clinton, which placed 1,880,461 acres, or 2,938  
30 square miles, of land within the borders of Utah under protected status, greatly restricting its  
31 use by local individuals, all without the consent of the Legislature of the state of Utah;

32 WHEREAS, the Grand Staircase-Escalante National Monument is over two times the  
33 size of the state of Rhode Island;

34 WHEREAS, an additional national monument designation within the borders of the  
35 state will have the effect of further restricting the public's access and enjoyment of lands in  
36 Utah without the consent of the Governor or the Legislature;

37 WHEREAS, it is unlikely that our Framers, as evidenced by their inspired and carefully  
38 crafted constitutional design to balance power and responsibilities between branches of  
39 government and between the national and state governments, ever intended to grant the  
40 executive branch unilateral authority to set aside vast swaths of land within the borders of a  
41 state without input from Congress or locally elected representatives;

42 WHEREAS, on March 7, 2013 in her confirmation hearing to be Secretary of the  
43 Interior, Sally Jewell committed to Senator Mike Lee that gaining local support for a national  
44 monument should be a pre-requisite for national monument designations under the Antiquities  
45 Act;

46 WHEREAS, over the past three years, Secretary Jewell has repeatedly made reference  
47 to the importance of local buy-in, including local meetings, input, and public hearings before a  
48 monument designation;

49 WHEREAS, on Wednesday, February 24, 2016 in a House Natural Resources  
50 Committee discussion with Secretary Jewell, Chairman Rob Bishop noted that during each of  
51 President Obama's previous monument declarations, at least one member of that state's  
52 congressional delegation supported a monument declaration;

53 WHEREAS, Chairman Bishop went on to note that not one single member of Utah's  
54 congressional delegation supports another national monument declaration in Utah under the  
55 Antiquities Act;

56 WHEREAS, on February 23, 2016, in her response to Senator Lee in a hearing before

57 the Senate Committee on Energy and Natural Resources, Secretary Jewell remained  
58 non-committal regarding working with Utah's Governor, federal delegation, and local elected  
59 officials, and stated in reference to concerns about a potential new monument designation in  
60 southeastern Utah: "Well, to be clear, I can't commit to anything with regard to the Antiquities  
61 Act because that is a tool of the president of the United States. I will commit that we will go  
62 out and spend time within the community and take input from the community. That is  
63 something that we have done every time and we will continue to do that.";

64 WHEREAS, as of March 2016, that process of taking input from local communities has  
65 not occurred in Utah;

66 WHEREAS, the Legislature of the state of Utah hereby goes on record as not only  
67 withholding its consent to the establishment of any proposed new national monuments without  
68 state legislative approval, but emphatically objecting to the establishment of the same;

69 WHEREAS, Governor Gary R. Herbert has written to the President of the United States  
70 twice -- once in August 2015 and once in February 2016 -- urging him not to use the  
71 Antiquities Act to designate another national monument in Utah;

72 WHEREAS, Governor Herbert noted that another monument designation in Utah  
73 would "inflame passion, spur divisiveness, and ensure perpetual opposition;"

74 WHEREAS, the system of having federal bureaucrats over a thousand miles away  
75 govern land in Utah is contrary to the dual sovereignty design of our federal republic, which  
76 protects individual liberty by diffusing sovereign power so that no single sovereign can become  
77 tyrannical, controlling all aspects of our lives;

78 WHEREAS, decisions regarding the health, safety, and welfare -- the "police power" --  
79 of citizens are, under our federal system, properly placed with local governments more  
80 accountable to the citizens, not with unelected, unaccountable federal bureaucrats;

81 WHEREAS, over 66.5% of the land within the sovereign state of Utah is already  
82 controlled by the federal government, unlike 38 states in the Union which enjoy dominion over  
83 almost all the land within their borders;

84 WHEREAS, the sovereignty of the state of Utah is already negatively impacted by this  
85 vast federal control and territory -- larger than the entire state of New York -- within its  
86 borders, placing its citizens' rights and liberties at jeopardy;

87 WHEREAS, the use of the Antiquities Act in recent years by presidents to designate

88 millions of acres of land as national monuments disparately impacts western states, including  
89 Utah, because only western states have large areas of federal land remaining within their  
90 borders;

91 WHEREAS, this disparate impact on Utah and other western states is unconstitutional  
92 and violates the equal sovereignty principle, and equal footing doctrine;

93 WHEREAS, two western states -- Wyoming and Alaska -- received special exemptions  
94 from the Antiquities Act in 1950 and 1980, respectively, after the Act was used extensively  
95 within the boundaries of those two states; and

96 WHEREAS, Utah is already the home to seven national monuments and should be  
97 considered for an exemption from the Antiquities Act, like Wyoming and Alaska:

98 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the  
99 Governor concurring therein, expresses strong opposition to the creation of any new national  
100 monuments within the state by the President of the United States without state legislative  
101 approval.

102 BE IT FURTHER RESOLVED that the Legislature and Governor encourage Congress  
103 to amend the Antiquities Act to prevent President Obama and future presidents from  
104 unilaterally designating enormous amounts of land within a sovereign state, Utah in particular,  
105 as a national monument without state legislative approval.

106 BE IT FURTHER RESOLVED that the Legislature and Governor encourage Attorney  
107 General Sean Reyes to research the authority of the President of the United States to designate  
108 a proposed national monument within the borders of the state of Utah without state legislative  
109 approval.

110 BE IT FURTHER RESOLVED that the Legislature and the Governor encourage the  
111 Attorney General to research and explore all legal options available to the state regarding  
112 unilateral national monument designations.

113 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of  
114 the United States, the members of Utah's congressional delegation, and Attorney General Sean  
115 Reyes.