

1 **CONCURRENT RESOLUTION - LETTER TO FEDERAL**
2 **GOVERNMENT**

3 2012 GENERAL SESSION
4 STATE OF UTAH

5 **Chief Sponsor: Christopher N. Herrod**

6 Senate Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This concurrent resolution of the Legislature and the Governor demands that the
11 national government of the United States declare to the state of Utah its intent to
12 dispose of its public lands in Utah or cede control of its lands to the state of Utah by
13 ~~H→ [July 1, 2012,]~~ ←H or the state of Utah will take appropriate action to vindicate its rights
14 under the United States Constitution, Utah's Enabling Act, and natural law.

15 **Highlighted Provisions:**

16 This resolution:

17 ▶ demands that ~~H→ [, by July 1, 2012,]~~ ←H the national government of the United States
18 communicate, in writing, to the Governor of the state of Utah, the President of the
19 Utah Senate, and the Speaker of the Utah House of Representatives, the intent of the
20 national government of the United States to commit to either, by ~~H→ [January 1,]~~

20a **February 15, ←H** 2013,

21 begin:

22 • selling public lands held by the national government in Utah and depositing 5%
23 of those proceeds into Utah's permanent school fund as required by Utah's
24 Enabling Act; or

25 • ceding control of, management of, and authority to sell public lands in Utah held
26 by the national government to Utah's state government; and

27 ▶ provides that, if the national government of the United States affirmatively rejects



28 both courses of action, declines to commit to one of these courses of action, or fails to
 29 communicate its response to this demand by ~~H→ [July 1, 2012]~~ February 15, 2013 ←H , the
 29a government of the state of Utah,
 30 on behalf of the citizens of the state of Utah, will take appropriate action to vindicate its rights
 31 under the United States Constitution, Utah's Enabling Act, and natural law.

32 **Special Clauses:**

33 None



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

36 WHEREAS, the Legislature and the Governor of the state of Utah, on behalf of Utah's
 37 current and future citizens, seeks recognition of, and vindication of, certain rights granted to it
 38 by the Constitution of the United States, guaranteed to it by the United States government by
 39 the passage of Utah's Enabling Act, and secured to it by natural law;

40 WHEREAS, the Legislature and the Governor of the state of Utah seek redress from the
 41 United States government ~~H→ [by July 1, 2012]~~ ←H ;

42 WHEREAS, the Legislature and the Governor of the state of Utah assert, as a state
 43 within the United States of America, that certain express and implied promises made by the
 44 national government of the United States of America have not been fulfilled or have been
 45 abrogated by the direct and indirect action of the national government, to the detriment of the
 46 citizens of Utah;

47 WHEREAS, in granting the right to "the People of Utah to form a Constitution and
 48 State Government, and to be admitted into the Union on an equal footing with the original
 49 States," the United States Congress, the President of the United States, and the citizens of the
 50 United States made certain express and implied promises to Utah, which remain unfulfilled
 51 over one hundred years later;

52 WHEREAS, in addition, subsequent Congresses and Presidents have taken affirmative
 53 actions that, intentionally or not, change the covenants made between the national government
 54 of the United States and the citizens and government of the state of Utah;

55 WHEREAS, Utah's Enabling Act guarantees that "five per centum of the proceeds of
 56 the sales of public lands lying within said State, which shall be sold by the United States
 57 subsequent to the admission of said State into the Union, after deducting all the expenses
 58 incident to the same, shall be paid to the said State, to be used as a permanent fund, the interest

59 of which only shall be expended for the support of the common schools within said State";

60 WHEREAS, the national government of the United States has failed to fulfill its
61 obligation under this portion of Utah's Enabling Act, as nearly 70% of the land area in Utah
62 continues to be held by the national government and has not been sold;

63 WHEREAS, Utah's citizens, particularly its school children, have been and continue to
64 be harmed by the failure of the national government of the United States to fulfill its promises;

65 WHEREAS, the loss of revenues from the sale of the land and Utah's inability to tax the
66 land decreases the money available to the state of Utah to spend on public education;

67 WHEREAS, Congress's power to make this promise is explicitly granted to it by Article
68 IV, Section 3 of the Constitution of the United States: "New States may be admitted by
69 Congress into this Union; . . .";

70 WHEREAS, because Congress voluntarily imposed upon the national government the
71 obligation to sell the public lands it holds within Utah, the United States Constitution, contract
72 law, and fundamental fairness require that the national government of the United States be
73 required to fulfill the promises it made in Utah's Enabling Act;

74 WHEREAS, by passing the Federal Land Policy and Management Act of 1976, 43
75 U.S.C. Sec. 1701 et seq., and other land management legislation, which shifted the national
76 government of the United States' policy from selling lands within states held by the national
77 government to retaining and managing those lands, the national government of the United
78 States affirmatively broke the promise contained in Utah's Enabling Act and breached its
79 contractual obligation to the citizens of Utah;

80 WHEREAS, Utah's Enabling Act also guarantees that, if the citizens of Utah meet the
81 conditions for becoming a state established by Congress in the Enabling Act, "the proposed
82 State of Utah shall be deemed admitted by Congress into the Union, under and by virtue of this
83 act, on an equal footing with the original States, . . .";

84 WHEREAS, Congress's action in failing to sell public lands within Utah has denied
85 Utah its right under the Enabling Act to exist as a state on an "equal footing" with the original
86 states;

87 WHEREAS, the table attached as appendix A illustrates that Utah is not on an equal
88 footing with the original states;

89 WHEREAS, the table compares the percentage of land in Utah held by the national

90 government of the United States with the percentage of land in each of the original 13 states
91 held by the national government of the United States;

92 WHEREAS, to summarize the table, the national government owns 67.9% of the land
93 area of Utah, and of the original 13 states, Virginia has the highest percentage of land owned by
94 the national government at 15.7%;

95 WHEREAS, the citizens of the original 13 states have received and continue to receive
96 significant financial benefits not enjoyed by Utah's citizens;

97 WHEREAS, by failing to sell public lands in Utah, the national government of the
98 United States has deprived Utah's permanent school fund of money to build the school fund's
99 principal;

100 WHEREAS, consequently, the interest generated from the permanent school fund is
101 substantially less than it should be -- depriving Utah citizens of adequate money for public
102 education;

103 WHEREAS, sale of public lands to private parties may allow the state to tax those
104 lands;

105 WHEREAS, the revenues generated from those taxes can be used to further bolster
106 public education services, provide other essential state services, or to reduce the general tax
107 rates for all Utah citizens; and

108 WHEREAS, Utah's tax revenues and economy are harmed because economic growth
109 through private development of, and use of, the lands cannot occur:

110 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the
111 Governor concurring therein, on behalf of the citizens of Utah and based upon the reasons set
112 forth in this resolution, demand that, by ~~H→ [July 1, 2012]~~ February 15, 2013 ←H , the national
112a government of the United

113 States communicate, in writing, to the Governor of the state of Utah, the President of the Utah
114 Senate, and the Speaker of the Utah House of Representatives, the intent of the national
115 government of the United States to commit to either ~~H→ [, by January 1, 2013,]~~ ←H begin
115a (1) selling

116 public lands held by the national government in Utah and depositing 5% of those proceeds in
117 Utah's permanent school fund as required by Utah's Enabling Act; or (2) ceding control of,
118 management of, and authority to sell public lands in Utah held by the national government to
119 Utah's state government.

120 BE IT FURTHER RESOLVED by the Legislature and the Governor that if the national

121 government of the United States affirmatively rejects both courses of action, declines to
122 commit to one of these courses of action, or fails to communicate its response to this demand
123 by ~~H→~~ [July 1, 2012] February 15, 2013 ~~←H~~ , the government of the state of Utah, on behalf of
123a the citizens of the state of
124 Utah, will take appropriate action to vindicate its rights under the United States Constitution,
125 Utah's Enabling Act, and natural law.

126 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of
127 the United States, the Majority Leader of the United States Senate, the Speaker of the United
128 States House of Representatives, the United States Department of the Interior, and to the
129 members of Utah's congressional delegation.

Legislative Review Note
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Office of Legislative Research and General Counsel