

1 **CONCURRENT RESOLUTION ON TRANSFER OF PUBLIC**
2 **LANDS ACT**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Michael E. Noel**

6 Senate Sponsor: David P. Hinkins

8 **LONG TITLE**

9 **General Description:**

10 This concurrent resolution of the Legislature and the Governor calls upon the federal
11 government to honor the promises that it honored with all states east of Colorado and
12 transfer title of public lands to all willing western states.

13 **Highlighted Provisions:**

14 This resolution:

15 ▶ calls upon the federal government to honor the promises that it honored with all
16 states east of Colorado and transfer title of public lands to all willing western states;

17 ▶ calls upon national and state government leaders to exert their utmost power and
18 influence to urge the imminent transfer of public lands to all willing western states
19 for the benefit of these western states and for the nation as a whole;

20 ▶ strongly urges the members of Utah's congressional delegation to immediately
21 sponsor legislation in the United States House of Representatives and the United
22 States Senate that transfers ownership and title of the public lands within the state of
23 Utah and any other western state that wishes to be included in the legislation; and

24 ▶ urges the members of Utah's congressional delegation to use the proposed
25 introduction of legislation to transfer title and ownership of public lands as an
26 opportunity to educate their colleagues regarding the importance of the legislation
27 and to begin the process of obtaining cosponsors for the bill and support from the
28 numerous individuals that will be positively affected by the transfer of these public
29 lands to state ownership and control.

30 **Special Clauses:**

31 None

32

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

34 WHEREAS, the federal government promised all newly created states, in their
35 statehood enabling contracts, that it would transfer title of the public lands it held within the
36 borders of those states;

37 WHEREAS, this promise is the same for all states east and west of Colorado;

38 WHEREAS, the federal government has honored this promise with Hawaii and all
39 states east of Colorado and today controls, on average, less than 5% of the lands in those states;

40 WHEREAS, the federal government has failed to honor this same promise with
41 Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, Washington,
42 Oregon, California, and Alaska and today still controls more than 50% of all lands in these
43 states, including more than 80% of the state of Nevada;

44 WHEREAS, the United States Supreme Court declared the statehood enabling act
45 contracts to be "solemn compacts" with enforceable rights and obligations on both sides;

46 WHEREAS, in 1976, the United States Congress ended its nearly 200-year public
47 policy of beneficially transferring ownership of public lands by passing the Federal Land Policy
48 and Management Act of 1976 (FLPMA);

49 WHEREAS, public lands previously held in trust for the individual states were
50 managed for their resource value prior to the passage of FLPMA;

51 WHEREAS, since the passage of FLPMA, the public lands of western states are instead
52 being perpetually managed for their conservation value;

53 WHEREAS, as long as these lands are managed only for their conservation value, local,
54 state, and national economies will be adversely impacted by the loss of use of the natural
55 resources connected to these lands;

56 WHEREAS, Payment in Lieu of Taxes (PILT), Secure Rural Schools (SRS), and other
57 public offsets are financially inadequate to compensate for that loss, have been unreliably

58 funded, and do not adequately compensate the states for the breach of their enabling acts;

59 WHEREAS, the United States Supreme Court, in *Hawaii et al. v. Office of Hawaiian*
60 *Affairs (07-1372)*, concluded that Congress cannot, by subsequent, unilateral action, alter or
61 diminish the rights conferred upon a state in consequence of its admission to the Union;

62 WHEREAS, the United States Supreme Court further declared in the same case that
63 Congress does not have the authority to unilaterally change these statehood promises, known as
64 enabling acts, particularly "where virtually all of a State's public lands . . . are at stake";

65 WHEREAS, under the guise of sequestration and to cut federal expenses, the federal
66 government is cutting western states' revenues in the form of PILT, SRS, and Federal Mineral
67 Lease (FML) cutbacks;

68 WHEREAS, states east of Colorado pay billions of dollars each year to subsidize
69 western states to not use their lands and resources to educate their own children and care for
70 their own communities;

71 WHEREAS, western states already manage millions of acres of state lands and generate
72 more revenue with less expense and less environmental damage, in general, than federally
73 managed public lands;

74 WHEREAS, the National Association of Forest Service Retirees recently issued a paper
75 describing the unsustainability of current federal forest management practices;

76 WHEREAS, the resulting increase in catastrophic wildfires is needlessly killing
77 millions of animals and destroying habitat and watersheds;

78 WHEREAS, western states are incurring inordinate expenses to suppress forest fires
79 related to failed federal forest policies;

80 WHEREAS, the federal government discourages capital investment and job creation by
81 taking 10 times longer to approve energy development permits than states to whom the federal
82 government honored the promise to transfer title of the public lands;

83 WHEREAS, in 2013, the Institute for Energy Research discovered that there is more
84 than \$150 trillion in mineral value locked up in federally controlled lands;

85 WHEREAS, opening 8% of the coastal plain of the Arctic National Wildlife Refuge in

86 Alaska would provide billions of dollars to the federal treasury, create more than 500,000 jobs
87 nationwide, and add 9-16 billion barrels of oil to the nation's supply;

88 WHEREAS, in 2012, the United States Government Accountability Office testified
89 before Congress that there is more recoverable oil in Utah, Colorado, and Wyoming than in the
90 rest of the world combined;

91 WHEREAS, legal analyses by the Sutherland Institute and the Federalist Society
92 conclude that the intent of the parties, the text, and the context of the statehood enabling acts
93 obligate the federal government to dispose of public lands;

94 WHEREAS, for decades, states such as Illinois, Missouri, Indiana, Arkansas,
95 Louisiana, Alabama, Mississippi, and Florida were as much as 90% federally controlled;

96 WHEREAS, these states persistently protested to the United States Congress that they
97 could not fund their children's education, grow their economies, or govern themselves as
98 sovereign states due to the federal government's control over their lands;

99 WHEREAS, under the leadership of United States Senator Thomas Hart Benton from
100 Missouri, these states worked together to compel Congress to transfer title to their public lands;

101 WHEREAS, Senator Benton wrote that he went to "battle for an ameliorated system of
102 disposing of our public lands . . . I resolved to move against the whole system . . . I did so
103 in a bill, renewed annually for a long time";

104 WHEREAS, of even more powerful effect than sponsoring a bill every year "for a long
105 time," Senator Benton recorded that, for years, he taught throughout the United States that it
106 was the "solemn compact" of the national government -- from the very founding of this nation
107 -- to transfer title to the public lands within the states;

108 WHEREAS, Senator Benton taught people true principles of statehood and rallied them
109 to compel the members of their congressional delegations to "fix their eyes steadily upon the
110 period of the speedy extinction of the federal title to all the lands within the limits of their
111 respective States";

112 WHEREAS, the 1828 Congressional Committee on the Public Lands indicated "in vain
113 may the People of these States expect the advantages of well settled neighborhoods, so

114 essential to the education of youth . . . Those states will, for many generations, without some
115 change, be retarded in endeavors to increase their comfort and wealth, by means of works of
116 internal improvements, because they have not the power, incident to all sovereign States, of
117 taxing the soil, to pay for the benefits conferred upon its owner";

118 WHEREAS, the Congressional Committee on the Public Lands during Senator
119 Benton's service in Congress found, with respect to their admission as states, that "when these
120 States stipulated not to tax the lands of the United States until they were sold, they rested upon
121 the implied engagement of Congress to cause them to be sold, within a reasonable time. No
122 just equivalent has been given those States for a surrender of an attribute of sovereignty so
123 important to their welfare, and to an equal standing with the original States";

124 WHEREAS, inspired by the courage and leadership of Senator Benton, those states
125 succeeded in compelling Congress to transfer title of their public lands;

126 WHEREAS, today, those states have less than 5% of their lands under federal control;

127 WHEREAS, the national government made the same statehood promise to transfer title
128 of the public lands to Utah and the other western states;

129 WHEREAS, in 2012, Utah passed H.B. 148, Transfer of Public Lands Act and Related
130 Study, which called upon the federal government to honor the same statehood promise made to
131 Utah that it made and kept with all states east of Colorado to transfer title of Utah's public
132 lands;

133 WHEREAS, in 2013, the South Carolina Legislature passed a resolution supporting the
134 transfer of public lands to willing western states;

135 WHEREAS, other states east of Colorado are considering similar resolutions of support
136 in 2014; and

137 WHEREAS, national organizations, including the National Association of Counties, the
138 American Farm Bureau Federation, and the Republican National Committee have passed
139 resolutions supporting the transfer of public lands to willing western states:

140 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the
141 Governor concurring therein, calls upon the federal government to honor the promises that it

142 honored with all states east of Colorado and transfer title of public lands to all willing western
143 states.

144 BE IT FURTHER RESOLVED that the Legislature and the Governor call upon
145 national and state government leaders to exert their utmost power and influence to urge the
146 imminent transfer of public lands to all willing western states for the benefit of these western
147 states and for the nation as a whole.

148 BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the
149 members of Utah's congressional delegation to use every exertion of their power, by reason,
150 argument, and persuasion, to induce the United States to honor the same statehood promise to
151 transfer title of Utah's public lands that it made and kept with all states east of Colorado.

152 BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the
153 members of Utah's congressional delegation, acting for the "separate and independent
154 sovereign" state of Utah, to follow the path of United States Senator Thomas Hart Benton and
155 file, and do all in their power to secure the passage of, legislation to secure the transfer of all of
156 the public lands enumerated in H.B. 148, Transfer of Public Lands Act and Related Study,
157 2012 General Session.

158 BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the
159 members of Utah's congressional delegation to immediately sponsor legislation in the House of
160 Representatives and the United States Senate that transfers ownership and title of the public
161 lands within the state of Utah and within any other western state that wishes to be included in
162 the legislation.

163 BE IT FURTHER RESOLVED that the Legislature and the Governor urge the
164 members of Utah's congressional delegation to use the proposed introduction of legislation to
165 transfer title and ownership of public lands as an opportunity to educate their colleagues
166 regarding the importance of the legislation and to begin the process of obtaining cosponsors for
167 the bill and support from the numerous individuals that will be positively affected by the
168 transfer of these public lands to state ownership and control.

169 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority

170 Leader of the United States Senate, the Speaker of the United States House of Representatives,
171 the leader of each state legislative body in each of the 50 states, the United States Secretary of
172 the Interior, and the members of Utah's congressional delegation.