

REFERENCE TITLE: federal lands; devolution to Arizona

State of Arizona
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Introduced by
Representatives Barton, Gray, Shope, Thorpe, Townsend: Weninger

A CONCURRENT MEMORIAL

URGING THE UNITED STATES GOVERNMENT TO IMMEDIATELY DISPOSE OF THE PUBLIC
LANDS WITHIN ARIZONA'S BORDERS DIRECTLY TO THE STATE OF ARIZONA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 To the United States Congress and the Secretary of the United States
2 Department of the Interior:

3 Your memorialist respectfully represents:

4 Whereas, at the time of Arizona's Enabling Act, the course and practice
5 of the United States Congress with all prior states admitted to the Union had
6 been to fully dispose, within a reasonable time, of all lands within the
7 boundaries of such states, except for those Indian lands, or lands otherwise
8 expressly reserved to the exclusive jurisdiction of the United States; and

9 Whereas, the State of Arizona did not contemplate, and could not have
10 contemplated, the United States failing or refusing to dispose of all lands
11 within its defined boundaries within a reasonable time such that the State of
12 Arizona and its permanent fund for its public schools could never realize the
13 anticipated benefit of the deployment, taxation and economic benefit of all
14 the lands within its defined boundaries; and

15 Whereas, Arizona's Enabling Act contemplates that Arizona's temporary
16 suspension of its sovereign right to tax the public lands within its borders
17 for the benefit of its public schools and the common good of the state ends
18 the very moment that the national government discharges of its trust
19 obligation to immediately dispose of Arizona's public lands within its
20 borders; and

21 Whereas, under Article I, section 8, clause 17 of the United States
22 Constitution, the national government is constitutionally authorized to
23 exercise right, title and jurisdiction only over lands that are "purchased by
24 the Consent of the Legislature of the State in which the Same shall be, for
25 the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful
26 Buildings"; and

27 Whereas, the United States Congress never purchased land designated as
28 national parks nor did it ever seek or obtain the consent of the Arizona
29 Legislature as required under Article I, section 8, clause 17 of the United
30 States Constitution; and

31 Whereas, because of the failure of the national government to
32 immediately dispose of land within the borders of Arizona, this state bears
33 the burden of the inestimable entanglements and expectations over the
34 multiple use of these public lands that were required to be disposed of that
35 have accumulated for more than one hundred years; and

36 Whereas, Arizona should have had total control over its public lands
37 from 1912, plus a reasonable time for disposition of the lands; and

38 Whereas, Arizona has been substantially damaged in its ability to
39 provide funding for education because the national government has unduly
40 retained control of much of the land lying within Arizona's borders; and

41 Whereas, had the national government sold the land in or about 1912,
42 much of the net proceeds should have been applied to paying down the national
43 public debt, and some should have gone to the state of Arizona's permanent
44 fund for the support of the public schools; and

45 Whereas, Arizona consistently ranks high among all states in class size
46 and low in per pupil funding for education; and

1 Whereas, had the national government disposed of the land in or about
2 1912, Arizona would have generated, from that point forward, substantial tax
3 revenues to the benefit of its public schools and to the common good of the
4 state; and

5 Whereas, the national government gives Arizona less than half of the
6 proceeds of mineral lease revenues and severance taxes generated from the
7 lands within this state's borders; and

8 Whereas, Arizona has been substantially damaged in mineral lease
9 revenues and severance taxes in that, had the national government disposed of
10 land in or about 1912, Arizona would realize 100% of the mineral lease
11 revenues and severance taxes from the lands; and

12 Whereas, Arizona has been damaged by the inordinate cost and
13 substantial uncertainty regarding the national government's infringement on
14 Arizona's sovereign control of public lands within its borders; and

15 Whereas, *County of Shoshone v. United States* (unpublished), which
16 confirmed that state law controls in determining what constitutes sufficient
17 public use, *Shelby County v. Holder*, which clarified that "the fundamental
18 principle of equal sovereignty remains highly pertinent in assessing
19 [post-admission] disparate treatment of states" and *People for the Ethical
20 Treatment of Property Owners v. United States Fish and Wildlife Service*,
21 which confirmed the federal government's abuse of the Commerce Clause
22 authority, all lend support to the notion that the public lands within
23 Arizona's borders should be transferred to Arizona; and

24 Whereas, because of the breach of Arizona's Enabling Act, and the
25 damages resulting from it, the United States Congress should immediately
26 dispose of the public lands lying within the State of Arizona directly to the
27 State of Arizona; and

28 Whereas, the national government has an obligation to present and
29 future generations to pay the public debt, yet it has demonstrated a reckless
30 disregard for the growing national debt even as it continues to worsen at an
31 exponential rate.

32 Wherefore your memorialist, the House of Representatives of the State of
33 Arizona, the Senate concurring, prays:

34 1. That the United States government immediately and not later than
35 December 31, 2016 dispose of the public lands within Arizona's borders
36 directly to the State of Arizona.

37 2. That the United States Congress engage in good faith communication,
38 cooperation, coordination and consultation with the State of Arizona
39 regarding the immediate disposal of the public lands directly to this state.

40 3. That the Secretary of State of the State of Arizona transmit copies
41 of this Memorial to the President of the United States Senate, the Speaker of
42 the United States House of Representatives, the Secretary of the United
43 States Department of the Interior, the Chief of the United States Forest
44 Service, the Chairperson of the United States House Committee on Natural
45 Resources, the Chairperson of the United States Senate Committee on Energy
46 and Natural Resources and each Member of Congress from the State of Arizona.