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Utah lawmakers propose using eminent domain to take federal land

By Robert Gehrke
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A pair of Utah County lawmakers want to pass legislation that would give the state eminent domain power to take federal lands, including a coal-rich parcel in the Grand Staircase-Escalante National Monument.

The goal is to incite a court battle that they believe they can win at the Supreme Court giving Utah the right to develop the disputed land and generate some \$50 billion for the state's public schools.

"This is the solution to being the lowest-funded education system in the nation," said Rep. Ken Sumsion, R-American Fork.

Sumsion and Rep. Chris Herrod, R-Provo, argue the federal government has an obligation through the U.S. Constitution and Utah's statehood act, to sell off federal land and provide 5 percent of the money to the state, but hasn't followed through.

Lawmakers have complained for years that the federal land ownership in the state limits property taxes and development, hurting the state's ability to fund its schools. But they have been unable to move the federal government on the issue.

Sumsion said this is a more direct shot.

"We're going to eminent domain it and say this is a down payment for the 5 percent you owe us and we're going to court over that issue," he said.

Legislation would direct the attorney general's office to pursue the litigation and the lawmakers want \$3 million from the school trust fund to bankroll the lawsuit.

The lawmakers are targeting three areas to use the new authority: the Kaiparowits plateau, which is now part of the Grand Staircase-Escalante monument; Spring Creek in southern Utah; and Red Spur road in the Cache National Forest, where he said there is interest in building upscale cabins.

John Ferry, chairman of the board for the School and Institutional Trust Lands Administration, said it might be unwise to get cross-wise with the federal officials that SITLA tries to work with on a daily basis.

"I'm not speaking necessarily against what has been proposed, but I'm raising some flags as a businessman. As a citizen, go for it," he said.

But Rep. Bill Wright, R-Holden, questioned if there really is any drawbacks to the proposal.

"There's a whole generation of people who seem satisfied taking the crumbs they've given us," he said. "What's the real downside? If we don't win, they'll continue what they're doing now?"

Rep. John Mathis, R-Vernal, said the Legislature needs to defend its interests.

"There are times in our lives when we need to decide what is right and what is wrong and we need to stand by what's right at all cost," he said. "Folks, this is right, and the time is now, and we've got to be aggressive about this and I believe we have legitimate rights to stand up and challenge some of their actions."

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