

1 **JOINT RESOLUTION RELATED TO THE**
2 **UTAH ATHLETIC FOUNDATION**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: David Ure**

7 **LONG TITLE**

8 **General Description:**

9 This joint resolution of the Legislature addresses issues related to the Utah Athletic
10 Foundation.

11 **Highlighted Provisions:**

12 This resolution:

- 13 ▶ directs the Utah Athletic Foundation to amend its articles of incorporation and
14 bylaws to provide for the following:
- 15 • modification to the purposes of the Utah Athletic Foundation;
 - 16 • a revised investment policy;
 - 17 • a requirement that the board of directors have no fewer than 11 members;
 - 18 • modified qualifications for members of the board of directors;
 - 19 • a revised appointment process for the board of directors;
 - 20 • a requirement that audit programs be approved by the State Auditor or the
21 Legislative Auditor General; and
 - 22 • a requirement that certain budget information be public;
- 23 ▶ requires the Utah Athletic Foundation to adopt a resolution indicating that it is the
24 policy of the Utah Athletic Foundation to size its operations and expenditures,
25 including costs of capital improvements, to its revenue and endowment;
- 26 ▶ addresses the affect of this joint resolution on previous resolutions; and
27 ▶ directs the distribution of the joint resolution.



28 **Special Clauses:**

29 None



31 *Be it resolved by the Legislature of the state of Utah:*

32 WHEREAS, the Salt Lake Organizing Committee of the Olympic Winter Games of
33 2002 successfully hosted the Olympic Winter Games of 2002;

34 WHEREAS, the taxpayers of the state contributed in significant ways to the success of
35 the Olympic Winter Games of 2002 including building winter sports facilities used to bid for
36 and host the Olympic Winter Games of 2002;

37 WHEREAS, S.J.R. 17, 1994 General Session, and subsequent joint resolutions of the
38 Legislature govern the sale of the Winter Sports Park and payment of a Legacy Fund to the
39 Utah Athletic Foundation by the Salt Lake Organizing Committee for the operation and
40 maintenance of certain Olympic venues operated by the Utah Athletic Foundation;

41 WHEREAS, S.J.R. 17, 1994 General Session, and subsequent joint resolutions of the
42 Legislature govern various aspects of the structure and governance of the Utah Athletic
43 Foundation;

44 WHEREAS the state's intent, as originally stated in S.J.R 17, 1994 General Session, is
45 "to privatize the Winter Sports Park and associated facilities and eliminate liability related to
46 those facilities";

47 WHEREAS, because of the success of the Olympic Winter Games of 2002, the Utah
48 Athletic Foundation will receive approximately \$74,000,000 from the revenues of the Olympic
49 Winter Games of 2002;

50 WHEREAS, the Utah Athletic Foundation is intended to be a self-sustaining
51 organization that meets its needs through its own revenue and endowment monies;

52 WHEREAS, the Utah Athletic Foundation, in preparing and adopting its budget, should
53 not assume that the taxpayers of the state will provide additional funding in the future;

54 WHEREAS, the citizens of Utah have an interest in the long-term financial and
55 operational success of the Utah Athletic Foundation because of the importance of winter sports
56 to the state and because of the reversionary interest the state has in the Winter Sports Park
57 under specified circumstances;

58 WHEREAS, the size, breadth, and diversity of the board of directors directly impacts

59 the successful management of the Utah Athletic Foundation;

60 WHEREAS, the state's intent, as originally stated in S.J.R 17, 1994 General Session, is
61 that the Utah Athletic Foundation own and operate its facilities "for the benefit of Utah's
62 citizens which will provide public recreation facilities and sports development";

63 WHEREAS, ongoing communication and openness between the Utah Athletic
64 Foundation, public officials, and the citizens of Utah will promote the long-term viability of the
65 Utah Athletic Foundation's operations and foster the Utah Athletic Foundation's charge to
66 benefit Utah's citizens; and

67 WHEREAS, the board should be held to the standards of other similar organizations in
68 its implementation of an investment policy:

69 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah
70 directs the Utah Athletic Foundation to amend its articles of incorporation and bylaws by no
71 later than July 1, 2005 to do the following:

72 (1) delete references in the purposes of the Utah Athletic Foundation concerning the
73 assumption of that certain Community Ice Sheet Lease Operation and Maintenance Agreement
74 among Weber County, the Utah Sports Authority, and Weber State University if permitted by
75 contract;

76 (2) modify the appointment process for the board of directors to allow the governor to
77 appoint an individual if the Utah Athletic Foundation does not provide the governor
78 nominations within 60 days of the day on which the current term of a director expires, a
79 director resigns, or a director is removed except when the Utah Athletic Foundation requests
80 that a director not be appointed in order to reduce the number of the board of directors to no
81 fewer than 11 members;

82 (3) require that the board of directors have no fewer than 11 members;

83 (4) modify the membership qualifications for board members as follows:

84 (a) delete the requirement that one member reside in and represent the interests of
85 Wasatch County;

86 (b) modify the reference to a member residing in Salt Lake County to read as follows:
87 "one member residing in Salt Lake County who is familiar with the needs and interests of the
88 Utah Olympic Oval"; and

89 (c) modify the reference to a member residing in Summit County to read as follows:

90 "one member residing in Summit County who is familiar with the needs and interests of the
91 Utah Olympic Park";

92 (5) provide that the investment policy of the Utah Athletic Foundation read as follows:
93 "adopt and comply with an investment policy which policy shall provide for investment
94 management of the type appropriate for a trust or endowment fund managed with the exercise
95 of that degree of judgment and care, under the circumstances then prevailing, which persons of
96 prudence, discretion, and intelligence exercise in the management of their own affairs";

97 (6) require that the selection of the independent public accountant and its audit
98 program for the required annual financial audits be approved by the State Auditor;

99 (7) require that the selection of an independent auditor and its audit program for the
100 independent performance audit required at least once every five years be approved by the
101 Legislative Auditor General; and

102 (8) add to its operational requirements a requirement that the Utah Athletic
103 Foundation's budget and financial information be available, for a reasonable cost, to the public
104 upon request except for information that, if disclosed would:

105 (a) harm the Utah Athletic Foundation's:

106 (i) competitive position; or

107 (ii) ability to contract with sponsors or other third parties who provide funding to the
108 Utah Athletic Foundation; or

109 (b) impair the Utah Athletic Foundation's ability to fulfill its mandate as stated in S.J.R
110 17, 1994 General Session, and its articles and bylaws.

111 BE IT FURTHER RESOLVED that the Legislature directs the Utah Athletic
112 Foundation to adopt a resolution under which the Utah Athletic Foundation sizes its operation
113 and expenditures, including anticipated capital maintenance and improvements, to the
114 endowment monies and revenues of the Utah Athletic Foundation.

115 BE IT FURTHER RESOLVED that the Utah Athletic Foundation provide a copy of
116 amended articles of incorporation and bylaws adopted by the board of directors that conform to
117 this joint resolution to the Legislature through the Office of Legislative Research and General
118 Counsel.

119 BE IT FURTHER RESOLVED that this joint resolution only provides further guidance
120 and does not supercede S.J.R. 17, 1994 General Session, and subsequent resolutions relating to

121 the Utah Athletic Foundation which remain in full force and effect.
122 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah
123 Athletic Foundation.

Legislative Review Note
as of 2-11-05 4:27 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HJR016

Joint Resolution Related to the Utah Athletic Foundation

18-Feb-05

12:36 PM

State Impact

Provisions of this resolution can be handled within existing budgets.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst