

**RESOLUTION APPROVING LEGACY PARKWAY
SETTLEMENT AGREEMENT**

2005 SECOND SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

Senate Sponsor: Michael G. Waddoups

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor gives approval of the Utah Department of Transportation's execution of a settlement agreement to resolve all pending litigation and potential future claims of the plaintiffs and allow for the construction of the Legacy Parkway.

Highlighted Provisions:

This resolution:

- ▶ gives approval of the Utah Department of Transportation's execution of a settlement agreement with the Plaintiffs in *Utahns for Better Transportation et al. v. U.S. Dep't of Transportation et al.*, Consolidated Nos. CIV. 1:01-cv-00075; CIV. 1:01-cv-00145 (United States District Court for the District of Utah) and with other entities that have threatened to bring litigation against the State to resolve all pending litigation and potential future claims of the plaintiffs and allow for the construction of the Legacy Parkway.

Special Clauses:

None

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

WHEREAS, on or about January 17, 2001, Utahns for Better Transportation, Mayor Ross C. "Rocky" Anderson, in his official capacity as Mayor of Salt Lake City, the Sierra Club, and Paul and Rosemarie Hunter (Plaintiffs) sued the United States Department of

Transportation and other federal agencies alleging that they had wrongfully issued permits to the Utah Department of Transportation (UDOT) that would have allowed construction of the Legacy Parkway;

WHEREAS, on September 16, 2002, the United States Court of Appeals for the 10th Circuit issued an opinion concluding that the federal defendants had failed to comply with certain federal environmental laws before issuing the permits, and, consequently, requiring additional environmental analyses;

WHEREAS, the Court of Appeals also prohibited construction of the Legacy Parkway pending completion of the new analyses and issuance of new federal permits;

WHEREAS, since issuance of the 2002 court opinion, the federal agencies have prepared a Supplemental Environmental Impact Statement as required by the Court of Appeals and have complied with federal environmental laws regarding highway construction projects;

WHEREAS, the Plaintiffs and other entities have submitted comments alleging that the Supplemental Environmental Impact Statement fails to comply with federal law and with the remand from the Court of Appeals and have threatened to challenge the federal agencies on any decisions concerning the Legacy Parkway;

WHEREAS, UDOT has met with representatives for the plaintiffs and other entities over the past several months to reach a final accord that would allow for construction of the Legacy Parkway and termination of all litigation, pending or threatened;

WHEREAS, UDOT and the Plaintiffs and other entities have negotiated a proposed Settlement Agreement;

WHEREAS, the proposed Settlement Agreement would require expenditure of more than \$1 million;

WHEREAS, State Settlement Agreements, Title 63, Chapter 38b, Utah Code Annotated, requires legislative and gubernatorial approval of settlement agreements requiring the expenditure of more than \$1 million;

WHEREAS, the Governor approved the Settlement Agreement on November 1, 2005;

WHEREAS, on November 8, 2005, the Legislative Management Committee met and

heard testimony from the executive director of UDOT, John Njord, and others; and

WHEREAS, the Legislative Management Committee recommended that the Legislature consider the proposed Settlement Agreement in the special session called for November 9, 2005:

NOW, THEREFORE, BE IT RESOLVED by the Legislature, the Governor concurring therein, that the Legislature and the Governor approve UDOT executing a Settlement Agreement with Plaintiffs that contains the terms and conditions set forth in the Settlement Agreement dated October 31, 2005.

BE IT FURTHER RESOLVED by the Legislature, the Governor concurring therein, that approval from the Legislature and the Governor is required if UDOT and the Plaintiffs and other entities amend or modify the Settlement Agreement in a material respect or if changed circumstances would require a material amendment or modification of the Settlement Agreement.