

UTAH ATHLETIC FOUNDATION RESOLUTION

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dan R. Eastman

House Sponsor: Stephen H. Urquhart

Cosponsors: John W. Hickman Peter C. Knudson

LONG TITLE

General Description:

This joint resolution approves the negotiation of sales of portions of the Winter Sports Park under certain conditions and addresses other issues related to the Utah Athletic Foundation.

Highlighted Provisions:

This resolution:

- ▶ approves the Foundation's negotiation of sales of portions of the Winter Sports Park under certain conditions;
- ▶ authorizes changes to the governing documents of the Foundation including:
 - modifications to the purposes of the Foundation;
 - revisions to the Foundation's investment policy; and
 - modifications of requirements related to the board of directors;
- ▶ directs changes to the governing documents of the Foundation regarding the imposition of a minimum number of voting members on the board of directors;
- ▶ directs the Foundation to provide certain financial information in annual reports;
- ▶ requires the Foundation to provide the Legislature amended governing documents;
- ▶ addresses the effect of this resolution on prior resolutions; and
- ▶ provides for the distribution of the resolution.

Special Clauses:



28 None

29

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

31 WHEREAS, as used in this resolution:

32 (1) "Foundation" means the Utah Athletic Foundation;

33 (2) "Purchase Agreement" means the Winters Sports Facility Purchase Agreement
34 Between the Utah Sports Authority, as Seller and the Salt Lake City Bid Committee for the
35 Olympic Winter Games, as Purchaser executed August 1, 1994, as amended;

36 (3) "Sale," "sales," "sell," "sells," "selling," or "sold" means to transfer:

37 (a) ownership, title to, or possession of, real property; and

38 (b) with or without consideration; and

39 (4) "Winter Sports Park" means the Foundation's winter sports park and access road
40 from State Highway 224 located in Summit County, Utah, consisting of certain real property
41 and all improvements thereon, including three separate venues, a nordic ski jump complex, a
42 freestyle aerial jump and pool complex, and a bobsled and luge track together with associated
43 facilities and all rights-of-way and other rights of ingress and egress that the Foundation owns;

44 WHEREAS, the Salt Lake Organizing Committee of the Olympic Winter Games of
45 2002 successfully hosted the Olympic Winter Games of 2002;

46 WHEREAS, the state contributed in significant ways to the success of the Olympic
47 Winter Games of 2002 including building winter sports facilities used in hosting the Olympic
48 Winter Games of 2002;

49 WHEREAS, because of the success of the Olympic Winter Games of 2002, the
50 Foundation has received over \$70,000,000 from the revenues of the Olympic Winter Games of
51 2002;

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

56 WHEREAS, S.J.R. 17, 1994 General Session, and subsequent joint resolutions of the
57 Legislature address various aspects of the structure and governance of the Foundation;

58 WHEREAS, the board of directors of the Foundation should be held to the standards of

59 other similar organizations in its implementation of an investment policy;

60 WHEREAS, the citizens of Utah have an interest in the long-term financial and
61 operational success of the Foundation because of the importance of winter sports to the state
62 and because of the reversionary interest the state has in the Winter Sports Park under specified
63 circumstances;

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

67 WHEREAS, the Foundation may have opportunities to sell portions of the Winter
68 Sports Park for real estate development;

69 WHEREAS, the Foundation believes that sales negotiated in accordance with this joint
70 resolution will help improve the long-term viability of the Winter Sports Park; and

71 WHEREAS, legislative approval is required for the Foundation to negotiate sales of any
72 portion of the Winter Sports Park:

73 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah
74 approves the Foundation negotiating sales of portions of the property under the conditions set
75 forth in this resolution. The Legislature's approval terminates for any negotiation or sale
76 occurring on or after the day on which the Foundation fails to comply with this resolution in
77 negotiating any sale. The conditions for which the Foundation is responsible are as follows:

78 (1) the aggregate of all negotiated sales conducted under this resolution may not be for
79 more than a total of 10% of the acreage of the Winter Sports Park;

80 (2) the board of directors of the Foundation shall ensure that any transaction involving
81 a sale of a portion of the Winter Sports Park provides for a fair return on the value of the real
82 property being sold by the Foundation ~~it~~ → [including by:

83 ~~——(a) direct sale;~~

84 ~~——(b) joint venture;~~

85 ~~——(c) a partnership; or~~

86 ~~——(d) other financial participation in the transaction]~~ **and does not result in the Foundation**
86a **bearing any financial risk for the development or use of the portion of the Winter Sports Park**
86b **that is sold after the sale of that portion of the Winter Sports Park** ←~~it~~ ;

87 (3) the Foundation may not enter any negotiation, contract, or agreement that would
88 result in the Foundation selling a portion of the Winter Sports Park on or after April 1, 2010;

89 (4) before execution of any agreement that obligates the Foundation to sell a portion of

90 the Winters Sports Park, the Foundation must obtain:

91 (a) written approval of the Governor; and

92 (b) any other action by the Governor required for real estate development on the
93 portion of the Winter Sports Park that is subject to negotiation for sale, including requirements
94 under the Purchase Agreement;

95 (5) the Foundation ~~§~~ **may not agree to the imposition of a lien, mortgage, debt, trust**
95a **deed, pledge, assignment, judgment, or any other financial encumbrance or obligation against**
95b **the Winter Sports Park, but** ~~←§~~ may encumber that portion of the Winter Sports Park that is not
96 being sold ~~§~~ [~~including the granting of~~] **to grant** ~~←§~~ rights-of-way or easements ~~§~~ [~~;~~] ~~←§~~
96a only to the extent:

97 (a) necessary for the real estate development on the portion of the Winter Sports Park
98 being sold; and

99 (b) approved in writing by the Governor after the Governor determines that the
100 Foundation is legally able to encumber the Winter Sports Park;

101 (6) before executing any agreement obligating the Foundation to sell a portion of the
102 Winter Sports Park, the Foundation must obtain a written legal opinion that any legal
103 requirements or restrictions related to the sale of a portion of the Winter Sports Park can be
104 satisfied prior to the execution of the sale of a portion of the Winter Sports Park; and

105 (7) the Foundation must enter into an agreement with the Governor's office to
106 indemnify, hold harmless, and release the state and any of its entities, officers, members,
107 agents, volunteers, and employees from and against any and all losses, claims, damages,
108 injuries, liabilities, suits, or proceedings arising out of any transaction to sell a portion of the
109 Winter Sports Park or the performance of any transaction including without limitation court
110 costs, reasonable attorney fees and disbursements, and all amounts paid in investigation,
111 defense, or settlement in connection with, arising out of, or resulting from a transaction to sell a
112 portion of the Winter Sports Park.

113 BE IT FURTHER RESOLVED that the Legislature of the state of Utah approves the
114 Foundation negotiating the sales of portions of the Winter Sports Park subject to the Governor
115 taking the actions in this provision of this joint resolution. The Legislature's approval
116 terminates if the Governor chooses not to take these actions in providing written approval and
117 any other action required for real estate development on the portion of the Winter Sports Park
118 that is subject to negotiation for sale. The actions for the Governor to take are:

119 (1) the Governor or the Governor's designee meeting with the Legislative Management
120 Committee regarding the Governor's decision as to whether or not to grant the written approval

121 or take other action before the Governor granting approval or taking action; and

122 (2) the Governor taking reasonable steps to ensure that any legal requirements or
123 restrictions on the state related to the sale of a portion of the Winter Sports Park can be
124 satisfied before the execution of the sale of a portion of the Winter Sports Park including
125 termination of the state's reversionary interest in the portion of the Winter Sports Park being
126 sold.

127 BE IT FURTHER RESOLVED that the Legislature of the state of Utah authorizes the
128 Foundation to amend its articles of incorporation and bylaws by no later than August 1, 2007 to
129 do the following:

130 (1) delete references in the purposes of the Foundation concerning the assumption of
131 the Community Ice Sheet Lease Operation and Maintenance Agreement among Weber County,
132 the Utah Sports Authority, and Weber State University if permitted by contract;

133 (2) notwithstanding prior joint resolutions and subject to all other prior joint resolution
134 requirements, modify the membership qualifications for members of the board of directors as
135 follows:

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

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

141 (c) modify the reference to a member residing in Summit County to read as follows:
142 "one member residing in Summit County who is familiar with the needs and interests of the
143 Utah Olympic Park"; and

144 (3) delete the investment requirements of H.J.R 25, 2002 General Session, and replace
145 those requirements with an investment policy for the Foundation that reads as follows: "adopt
146 and comply with an investment policy which policy shall provide for investment management
147 of the type appropriate for a trust or endowment fund managed with the exercise of that degree
148 of judgment and care, under the circumstances then prevailing, which persons of prudence,
149 discretion, and intelligence exercise in the management of their own affairs".

150 BE IT FURTHER RESOLVED that the Legislature of the state of Utah directs the
151 Foundation to:

152 (1) amend its articles of incorporation and bylaws by no later than August 1, 2007 to
153 require that the board of directors of the Foundation have no fewer than 11 voting members;
154 and

155 (2) annually provide in an annual report of the Foundation available on the
156 Foundation's website:

157 (a) the most recent audited financial statements;

158 (b) a comparison of the Foundation's actual revenues and expenses versus budgeted
159 amounts for the year in which the Foundation provides the annual report;

160 (c) the budget for the year following the year in which the Foundation provides the
161 annual report;

162 (d) a detailed explanation of how net proceeds are used to further the purposes of the
163 Foundation; and

164 (e) the financial information included in the Foundation's most recent IRS Form 990
165 including the disclosure of compensation paid by the Foundation.

166 BE IT FURTHER RESOLVED that the Foundation provide a copy of amended articles
167 of incorporation and bylaws adopted by the board of directors that conform to this joint
168 resolution to the Legislature through the Office of Legislative Research and General Counsel.

169 BE IT FURTHER RESOLVED that S.J.R. 17, 1994 General Session, and subsequent
170 resolutions relating to the Winter Sports Park and the Foundation remain in full force and
171 effect except to the extent that they are expressly superseded by this joint resolution.

172 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Foundation.

Legislative Review Note
as of 11-15-06 4:55 PM

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-12-06 10:46 AM

The Workforce Services and Community and Economic Development Interim Committee recommended this bill.