

Representative David Ure proposes the following substitute bill:

UTAH ATHLETIC FOUNDATION RESOLUTION

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David Ure

Senate Sponsor: L. Alma Mansell

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.



26 **Special Clauses:**

27 None



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

30 WHEREAS, as used in this resolution:

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

32 (2) "Purchase Agreement" means the Winters Sports Facility Purchase Agreement

33 Between the Utah Sports Authority, as Seller and the Salt Lake City Bid Committee for the

34 Olympic Winter Games, as Purchaser executed August 1, 1994, as amended; and

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

36 (i) ownership, title to, or possession of, real property; and

37 (ii) with or without consideration.

38 (3) "Winter Sports Park" means the Foundation's winter sports park and access road

39 from State Highway 224 located in Summit County, Utah, consisting of certain real property

40 and all improvements thereon, including three separate venues, a nordic ski jump complex, a

41 freestyle aerial jump and pool complex, and a bobsled and luge track together with associated

42 facilities and all rights-of-way and other rights of ingress and egress that the Foundation owns;

43 WHEREAS, the Salt Lake Organizing Committee of the Olympic Winter Games of

44 2002 successfully hosted the Olympic Winter Games of 2002;

45 WHEREAS, the state contributed in significant ways to the success of the Olympic

46 Winter Games of 2002 including building winter sports facilities used in hosting the Olympic

47 Winter Games of 2002;

48 WHEREAS, because of the success of the Olympic Winter Games of 2002, the

49 Foundation has received over \$70,000,000 from the revenues of the Olympic Winter Games of

50 2002;

51 WHEREAS, S.J.R. 17, 1994 General Session, and subsequent joint resolutions of the

52 Legislature govern the sale of the Winter Sports Park and payment of a Legacy Fund to the

53 Foundation by the Salt Lake Organizing Committee for the operation and maintenance of

54 certain Olympic venues operated by the Foundation;

55 WHEREAS, S.J.R. 17, 1994 General Session, and subsequent joint resolutions of the

56 Legislature address various aspects of the structure and governance of the Foundation;

57 WHEREAS, the board of directors of the Foundation should be held to the standards of
58 other similar organizations in its implementation of an investment policy;

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

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

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

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

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

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

77 (1) the aggregate of the negotiated sales may not be for more than a total of 10% of the
78 acreage of the Winter Sports Park;

79 (2) the board of directors of the Foundation shall ensure that any transaction involving
80 a sale of a portion of the Winter Sports Park provides for a fair return on the value of the real
81 property being sold by the Foundation ~~it~~ **including by direct sale, joint venture, a partnership,**
81a **or other financial participation in the transaction** ~~it~~ ;

82 (3) the Foundation may not enter any negotiation, contract, or agreement that would
83 result in the Foundation selling a portion of the Winter Sports Park on or after January 1, 2011;

84 (4) prior to execution of any agreement that obligates the Foundation to sell a portion
85 of the Winters Sports Park, the Foundation must obtain:

86 (a) written approval of the Governor; and

87 (b) any other action by the Governor required for real estate development on the

88 portion of the Winter Sports Park that is subject to negotiation for sale, including requirements
89 under the Purchase Agreement;

90 (5) the Foundation may encumber that portion of the Winter Sports Park that is not
91 being sold, including the granting of rights-of-way ~~H→~~ or easements ~~←H~~, only to the extent:

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

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

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

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

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

114 (1) the Governor or the Governor's designee meeting with the Legislative Management
115 Committee regarding the Governor's decision as to whether or not to grant the written approval
116 or take other action prior to the Governor granting approval or taking action; and

117 (2) the Governor taking reasonable steps to ensure that any legal requirements or
118 restrictions on the state related to the sale of a portion of the Winter Sports Park can be

119 satisfied prior to the execution of the sale of a portion of the Winter Sports Park including
120 termination of the state's reversionary interest in the portion of the Winter Sports Park being
121 sold.

122 BE IT FURTHER RESOLVED that the Legislature of the state of Utah authorizes the
123 Foundation to amend its articles of incorporation and bylaws by no later than July 1, 2006 to do
124 the following:

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

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

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

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

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

139 (3) notwithstanding H.J.R 25, 2002 General Session, provide that the investment
140 policy of the Foundation read as follows: "adopt and comply with an investment policy which
141 policy shall provide for investment management of the type appropriate for a trust or
142 endowment fund managed with the exercise of that degree of judgment and care, under the
143 circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise
144 in the management of their own affairs".

145 BE IT FURTHER RESOLVED that the Legislature of the state of Utah directs the
146 Foundation to:

147 (1) amend its articles of incorporation and bylaws by no later than July 1, 2006 to
148 require that the board of directors of the Foundation have no fewer than 11 voting members;
149 and

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

152 (a) the most recent audited financial statements;

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

155 (c) the budget for the year following the year in which the Utah Athletic Foundation
156 provides the annual report;

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

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

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

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

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

Fiscal Note
Bill Number HJR030S01

Utah Athletic Foundation Resolution

23-Feb-06

5:01 PM

State Impact

Mailing provisions of this resolution can be handled within existing budgets.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst