

TO GIVE THE CONSENT OF CONGRESS TO AN AGREEMENT OR COMPACT
BETWEEN UTAH AND NEVADA REGARDING A CHANGE IN THE BOUND-
ARIES OF THOSE STATES, AND FOR OTHER PURPOSES

MAY 16, 2002.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 2054]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill
(H.R. 2054) to give the consent of Congress to an agreement or
compact between Utah and Nevada regarding a change in the
boundaries of those States, and for other purposes, having consid-
ered the same, reports favorably thereon with an amendment and
recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. CONSENT TO AGREEMENT OR COMPACT.

(a) **CONSENT GIVEN.**—The consent of the Congress of the United States is given to Utah and Nevada to enter into an agreement or compact that meets the following requirements:

(1) The agreement or compact is consented to by the legislatures of Utah and Nevada and such consent is evidenced through Acts enacted by the legislatures of Utah and Nevada not later than December 31, 2006.

(2) The agreement or compact is not in conflict with any Federal law.

(3) The agreement or compact does not change the boundary of any other State.

(4) The agreement or compact does not result in the transfer to Nevada of more than a total of 10,000 acres of lands that are located within Utah on the date of the enactment of this Act.

(5) The agreement or compact is entered into for the primary purpose of changing the boundaries of Utah and Nevada so that the lands located within the municipal boundaries of the city of Wendover, Utah, on the date of the enactment of this Act, including the municipal airport, shall, after the implementation of the agreement or compact, be located within the boundaries of Nevada. This paragraph shall not prohibit the agreement or compact from including provisions that are reasonably related to the following:

(A) A change in the boundaries of Utah and Nevada for the purposes described in this paragraph.

(B) Including other Utah lands immediately surrounding the municipal boundaries of Wendover, Utah, as described in this paragraph, in a transfer to Nevada if such inclusion would—

(i) facilitate the management of lands transferred under the agreement or compact or the placement of the boundaries of Utah or Nevada; or

(ii) minimize the likelihood of future residential development on remaining Utah lands.

(C) Any other provision in the agreement or compact regarding a change in ownership of, management of, or other responsibilities or obligations related to—

(i) providing State, county, or municipal services;

(ii) public utilities;

(iii) public schools; or

(iv) the municipal airport referred to in this paragraph.

(6) The agreement or compact is consented to by a majority of the registered qualified electors who cast a vote on the agreement or compact held in each of the cities of West Wendover, Nevada, and Wendover, Utah, on the date of the regularly scheduled general election for Federal office in 2002. The question in the vote held in each of the cities of West Wendover, Nevada, and Wendover, Utah, under this paragraph shall contain the same language to the extent allowed by local law. Such language shall explain, with specificity sufficient to inform voters, all components of the agreement or compact regarding changes in ownership of, management of, or other responsibilities, costs, or obligations related to—

(A) State, county, and municipal social and public services;

(B) public utilities;

(C) land use;

(D) community economics;

(E) public schools; and

(F) the local municipal airport.

(b) **EFFECTIVE DATE OF AGREEMENT OR COMPACT.**—An agreement or compact entered into in accordance with subsection (a) shall become effective upon the fulfillment of the requirement of subsection (a)(1) without further consent or ratification on the part of the Congress of the United States.

(c) **UNITED STATES OWNERSHIP AND JURISDICTION RETAINED.**—Nothing in this Act or in the agreement or compact consented to under this Act shall be construed to impair or in any manner affect the ownership or jurisdiction of the United States in and over any lands within the boundaries of Utah or Nevada.

PURPOSE AND SUMMARY

H.R. 2054, would give the consent of Congress to an agreement or compact between Utah and Nevada regarding a change in the boundaries of those States. The bill gives the prior approval of Congress to a compact which the States of Nevada and Utah may agree upon regarding the border shared by the two States. The area involved relates to the city and surrounding area of Wendover, Utah, which would be, under an agreement between the two States, part of Nevada. H.R. 2054 only allows for prior consent to the compact as long as a set of stated criteria is met, such as a requirement of a local vote in which each of the communities indicate approval of the merger by a majority affirmation demonstrated by each, as well as an expiration date for Utah and Nevada to have completed all necessary steps for the completion of the compact, with failure to do so resulting in the expiration of the prior consent of Congress.

BACKGROUND AND NEED FOR THE LEGISLATION

The cities of Wendover, Utah and West Wendover, Nevada sit astride the Utah-Nevada State boundary. While the two communities of Wendover, Utah and West Wendover, Nevada are divided only by a line painted across the street, they are vastly different. West Wendover is a thriving city with liberal alcohol laws, legalized gambling, and a vibrant tax base. The town's casinos attract more than 300,000 visitors a month, and its population has more than doubled in the past decade to about 5,000 permanent residents.¹ Wendover, Utah, however, is quite different. In Wendover, gambling is illegal, and many of the 1,500 residents live in mobile homes and work at casinos located across the State line. Wendover's motels and businesses have a difficult time competing with their Nevada neighbors, and a steady erosion in Wendover's local tax base, coupled with costly duplication of government services in both Wendovers, makes the efficient delivery of quality public services difficult to provide.²

For some time the Wendover communities have been considering ways to bridge the economic divide between themselves. State and local officials have considered shifting the State boundary in order to incorporate Wendover into Nevada. This solution would involve moving the State line approximately three miles into Utah and, in the process, shifting approximately 10,000 square acres from Utah to Nevada. On September 7, 2001, the City Councils of Wendover and West Wendover agreed that their citizens should have a vote on whether the State line should be moved to allow the communities to unite.³ The two councils, meeting jointly on the Nevada side of the border, agreed to ask Congress to condition its consent to the proposed boundary change upon passage of local referenda. Introduced by Rep. James V. Hansen (R-Utah) and Rep. Jim Gibbons (R-Nevada) on June 5, 2001, H.R. 2054 would facilitate State efforts to redraw the Nevada-Utah State line by removing Federal

¹Tom Gorman, *2 Town's Great Divide: Poor Utah City Wants to Unite With Its Richer Nevada Half. To Work, The State Line Will Have to Be Shifted a Bit*, L.A. TIMES, May 28, 2001, at A12.

²*Id.*

³*Las Vegas Review Journal, Online Edition*. <http://www.lvrj.com/lvrj—home/2001/Sep-08-Sat-2001/news/16950664.html> [visited November 9, 2001].

obstacles to a boundary change that takes place in a manner consistent with conditions contained in the bill.

H.R. 2054 gives congressional consent to a proposed border change if: (1) the compact is consented to by both State legislatures within a specified period after the date of the enactment of the legislation; (2) the compact does not conflict with Federal law; (3) the agreement does not change the boundary of any other State; (4) the amount of land transferred is not more than 10,000 acres; and (5) the primary purpose of changing the boundaries of Utah and Nevada is to ensure that lands located within the municipal boundaries of the City of Wendover-Utah, including the municipal airport, shall be located within the boundaries of Nevada. Further, H.R. 2054 would require that Nevada and Utah enter into this agreement no later than December 31, 2006, and that the affirmation of Wendover, Utah and West Wendover, Nevada be demonstrated by a majority vote taking place on the issue of boundary movement. In that vote, all components and details of the proposed merger and boundary change shall be presented to the voters of the two communities.

HEARINGS

The Subcommittee on Commercial and Administrative Law held a hearing on March 6, 2002, in which Congressman James V. Hansen (R-Utah), author of H.R. 2054, testified in support of its passage.

COMMITTEE CONSIDERATION

On March 6, 2002, the Subcommittee on Commercial and Administrative Law met in open session and ordered favorably reported the bill H.R. 2054, as amended, by a voice vote, a quorum being present. On May 8, 2002, the Committee met in open session and ordered favorably reported the bill H.R. 2054 with amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

There were no recorded votes on H.R. 2054.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 2054 does not authorize funding. Therefore, clause 3(c) of rule XIII of the Rules of the House of Representatives is inapplicable.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2054, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 14, 2002.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2054, a bill to give the consent of the Congress to an agreement or compact between Utah and Nevada regarding a change in the boundaries of those States, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker, who can be reached at 226-2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 2054—A bill to give the consent of the Congress to an agreement or compact between Utah and Nevada regarding a change in the boundaries of those States, and for other purposes.

H.R. 2054 would give Congressional consent to a boundary change between Utah and Nevada that would enable the city of Wendover, Utah, to be located within the boundaries of Nevada. Enacting the bill would result in no cost to the Federal Government. Because enactment of H.R. 2054 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.

The CBO staff contact for this estimate is Lanette J. Walker, who can be reached at 226-2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 10, clause 3 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1: Consent to Agreement or Compact.

This section grants the prior consent and approval of Congress for the States of Utah and Nevada to enter into a compact or agreement so long as that compact or agreement meets certain stated requirements. Those requirements include: (1) that the agreement or compact is agreed to, as evidenced through acts, by the State legislatures of Nevada and Utah no later than December 31, 2006; (2) there is no conflict within the agreement or compact to any Federal law; (3) the compact or agreement does not change the boundary of any other State; (4) the agreement or compact does not result in the transfer of more than 10,000 acres of land which is currently within the State of Utah; (5) that the primary purpose of this agreement or compact is that lands which are located currently within the municipal boundaries of Wendover, Utah, including the municipal airport, be located after the implementation of this agreement, within the boundary of Nevada; and (6) the agreement or compact is consented to by a majority of voters in each of the communities involved, West Wendover and Wendover, as demonstrated by a popular vote which is to be presented to each community in identical language so much as permitted by local law. This vote shall be on the issue of merger, with specificity presented in the language of the vote as to all components of the agreement, which shall include details on issues of land transfer, public services, public utilities, community economics, public schools, and the local municipal airport. This vote shall require two separate majorities in favor or merger to satisfy the requirements of this legislation, one each from Wendover and West Wendover.

The effective date of enactment of H.R. 2054 shall occur at such time as the requirements of this legislation are met, without necessity of further consent or ratification on the part of Congress.

MARKUP TRANSCRIPT

BUSINESS MEETING
WEDNESDAY, MAY 8, 2002

HOUSE OF REPRESENTATIVES,
 COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:03 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. [Presiding.] The Committee will be in order.

[Intervening business.]

Next item on the agenda is H.R. 2054. The Chair recognizes the gentleman from Georgia, Mr. Barr, Chairman of the Subcommittee on Commercial and Administrative Law, for a motion.

Mr. BARR. Mr. Chairman, the Subcommittee on Commercial and Administrative Law reports favorably the bill H.R. 2054 with a single amendment in the nature of a substitute and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, the bill will be considered as read and open for amendment at any point. And the

Subcommittee amendment in the nature of a substitute, which the Members have before them, will be considered as read and be considered as the original text for purposes of amendment.
[The amendment follows:]

SUBCOMMITTEE AMENDMENT
IN THE NATURE OF A SUBSTITUTE
TO H.R. 2054

Strike all after the enacting clause and insert the following:

1 SECTION 1. CONSENT TO AGREEMENT OR COMPACT.

2 (a) CONSENT GIVEN.—The consent of the Congress
3 of the United States is given to Utah and Nevada to enter
4 into an agreement or compact that meets the following
5 requirements:

6 (1) The agreement or compact is consented to
7 by the legislatures of Utah and Nevada and such
8 consent is evidenced through Acts enacted by the
9 legislatures of Utah and Nevada not later than 2
10 years after the date of the local referendum required
11 by paragraph (6).

12 (2) The agreement or compact is not in conflict
13 with any Federal law.

14 (3) The agreement or compact does not change
15 the boundary of any other State.

16 (4) The agreement or compact does not result
17 in the transfer to Nevada of more than a total of
18 10,000 acres of lands that are located within Utah
19 on the date of the enactment of this Act.

1 (5) The agreement or compact is entered into
2 for the primary purpose of changing the boundaries
3 of Utah and Nevada so that the lands located within
4 the municipal boundaries of the city of Wendover,
5 Utah, on the date of the enactment of this Act, in-
6 cluding the municipal airport, shall, after the imple-
7 mentation of the agreement or compact, be located
8 within the boundaries of Nevada. This paragraph
9 shall not prohibit the agreement or compact from in-
10 cluding provisions that are reasonably related to the
11 following:

12 (A) A change in the boundaries of Utah
13 and Nevada for the purposes described in this
14 paragraph.

15 (B) Including other Utah lands imme-
16 diately surrounding the municipal boundaries of
17 Wendover, Utah, as described in this para-
18 graph, in a transfer to Nevada if such inclusion
19 would—

20 (i) facilitate the management of lands
21 transferred under the agreement or com-
22 pact or the placement of the boundaries of
23 Utah or Nevada; or

1 (ii) minimize the likelihood of future
2 residential development on remaining Utah
3 lands.

4 (C) Any other provision in the agreement
5 or compact regarding a change in ownership of,
6 management of, or other responsibilities or obligations related to—
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8 (i) providing State, county, or municipal services;
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10 (ii) public utilities;

11 (iii) public schools; or

12 (iv) the municipal airport referred to
13 in this paragraph.

14 (6) The agreement or compact is consented to
15 by a majority of the registered qualified electors who
16 cast a vote in a referenda on the agreement or compact held in each of the cities of West Wendover,
17 Nevada, and Wendover, Utah, on the date of the
18 regularly scheduled general election for Federal office in 2002. The referendum held under this paragraph shall contain the same language to the extent
19 allowed by local law. Such language shall explain,
20 with specificity sufficient to inform voters, all components of the agreement or compact regarding
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1 changes in ownership of, management of, or other
2 responsibilities, costs, or obligations related to—

3 (A) State, county, and municipal social
4 and public services;

5 (B) public utilities;

6 (C) land use;

7 (D) community economics;

8 (E) public schools; and

9 (F) the local municipal airport.

10 (b) EFFECTIVE DATE OF AGREEMENT OR COM-
11 PACT.—An agreement or compact entered into in accord-
12 ance with subsection (a) shall become effective upon the
13 fulfillment of the requirement of subsection (a)(1) without
14 further consent or ratification on the part of the Congress
15 of the United States.

16 (c) UNITED STATES OWNERSHIP AND JURISDICTION
17 RETAINED.—Nothing in this Act or in the agreement or
18 compact consented to under this Act shall be construed
19 to impair or in any manner affect the ownership or juris-
20 diction of the United States in and over any lands within
21 the boundaries of Utah or Nevada.

Chairman SENSENBRENNER. The Chair yields himself 5 minutes for purposes of a statement.

When Charles Dickens began a "A Tale of Two Cities" by saying, "It was the best of times, it was the worst of times," it was almost as if he was writing about the towns of West Wendover, Nevada, and Wendover, Utah.

This bill, introduced by Representative Hansen of Utah and co-sponsored by Representative Gibbons of Nevada, addresses the question of whether the economic and developmental struggles and inequities between the towns of Wendover and West Wendover should continue. It will help the people of both Wendovers to determine their fate, however it may best suit them.

In November, I had the opportunity to conduct a field briefing and a town meeting in Wendover with Representatives Hansen and Gibbons and learned a great deal about the unique and storied history of this part of the world. Since its establishment in 1907, the city has been transformed from a sleepy railroad supply station to a vibrant metropolitan cityscape. During the 1940's, Wendover's air force base trained the B-29 bomber crews that hastened the conclusion of the Second World War.

The Wendovers of today are quite different. On the Utah side, a once populated center of 20,000 residents and military personnel training at the Wendover Airport, including the crew of the Enola Gay, has now turned into a collection of 1,500 residents who live in an area which is commercially oppressed by the more pious liquor and gaming laws of Utah.

Literally across the street, and there is a line on the street, is West Wendover, a town which hums with the economic bustle of an energized community. West Wendover possess residential areas of new construction, casinos, and hotels, and an effective recreational and public works department, and an overall sense of growth and life.

When I was in Wendover, the one message I heard over and over again by both those who supported such a merger and those opposed to it—that message was, "Let the people of Wendover be heard."

Mr. Barr and the Subcommittee have already made sure that this will happen by amending the legislation and making any congressional pre-consent dependant upon an affirmation by referendum in each separate community on the issue of unification. The perceived disparities between the two Wendovers has led some to call for the annexation of Wendover to Nevada. The bill before us today gives the prior consent of Congress for the people of Wendover to unite as one under the laws and jurisdiction of Nevada.

Toward this end, the two representatives have introduced this bill, a compact that will facilitate this process by providing the consent of Congress to such a boundary change.

I now yield the balance of my time to the gentleman from Georgia, so that he may say something about the legislation.

Mr. BARR. I thank the Chairman for his lively and very insightful description of the situation currently faced by the residents of Wendover, Utah, and West Wendover, Nevada.

The economic disparities between the residents of both Wendovers are well-established. At the very least, these stark dif-

ferences provide us with a cogent reminder that State and local laws have a profound effect on the social and economic development of cities.

During our Subcommittee hearing on H.R. 2054, I was pleased to invite House Resources Chairman Jim Hansen to provide additional insight into the need for this legislation. As Chairman Hansen stressed in his testimony, H.R. 2054 takes no position on substantive details best resolved by the State and local governments and citizens of both States.

Rather, this bill places limits on the total acreage of land that might be shifted and establishes a time frame within which both States can assent to the measure. As a result, the purpose of H.R. 2054 is to facilitate and not dictate final resolution of this issue.

At the hearing, Chairman Hansen also told us his constituents have been asking a recurring question ever since he was elected to Congress in 1980: "What are we going to do about Wendover?"

Today, this Judiciary Committee has an opportunity to help the residents of Utah and Nevada resolve this question, and I urge my colleagues' support of this measure.

Chairman SENSENBRENNER. The gentleman's time has expired.

The gentleman from North Carolina, Mr. Watt.

Mr. WATT. Thank you, Mr. Chairman.

Chairman SENSENBRENNER. Five minutes.

Mr. WATT. I just wanted to say briefly that we had a hearing and markup on this legislation in the Subcommittee and that I think this a reasonable resolution of a problem that has been going on for a long time, or at least it sets up a framework to get to a resolution for a problem that's been going on for a long time.

Kind of as a tangential matter, the unfortunate thing is that this won't happen before the United States Supreme Court rules on the dispute about congressional districts between Utah and the State of North Carolina. Utah claims that they should have a congressional seat that was given to North Carolina. This 1,500 people going into Nevada out of Utah would clearly result in that seat going to North Carolina. But it won't be resolved quick enough to do that. So I'm disappointed about that, but I still support the legislation.

Chairman SENSENBRENNER. Does the gentleman yield back?

Mr. WATT. I do.

Chairman SENSENBRENNER. Without objection, all Members may place opening statements in the record at this point.

Are there any amendments?

And the Chair has an amendment at the desk. The clerk will report the amendment.

The CLERK. Amendment to H.R. 2054, offered by Mr. Sensenbrenner. Page and line numbers refer to the amendment in the nature of a substitute—

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The amendment follows:]

AMENDMENT TO H.R. 2054

OFFERED BY MR. SENSENBRENNER

(Page & line nos. refer to the Amendment in the Nature of a Substitute)

Page 1, line 9, strike "2" and all that follows through line 11, and insert "December 31, 2006."

Page 3, line 16, strike "in a referenda".

Page 3, line 20, strike "referendum held" and insert "question in the vote held in each of the cities of West Wendover, Nevada, and Wendover, Utah,".

Chairman SENSENBRENNER. And the Chair recognizes himself for a brief 5 minutes.

The amendment simply extends the amount of time that the States would have in order to comply with the requirements of this legislation. The process for approval of a boundary change in Nevada is a bit more complicated, because it requires an amendment to the State Constitution and, thus, taking two legislative sessions and a general election to complete. Thus, the amendment would allow the Nevada Legislature to meet in 2003 and 2005, and would also allow for the general election of 2006, so that the process observed in Nevada may be allowed to run its course.

In addition, the amendment makes the necessary semantic changes to conform with Nevada State law.

And I would urge my colleagues to support the amendment and yield back the balance of my time.

Further discussion on the amendment?

Mr. FRANK. Yes, Mr. Chairman. I congratulate because among the things you are striking is very bad grammar, the phrase "in a referenda," so I congratulate you for striking that. [Laughter.]

Chairman SENSENBRENNER. The Chair, with great humility, accepts the congratulations. [Laughter.]

The question is on the amendment that the Chair has offered.

Those in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the amendment to the amendment is agreed to.

The question now occurs on the Subcommittee amendment in the nature of a substitute.

Those in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the Subcommittee amendment in the nature of a substitute as amended is agreed to.

The Chair notes the presence of a reporting quorum.

The question now occurs on the motion to report the bill H.R. 2054 favorably as amended.

All in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the motion to report favorably is adopted.

Without objection, the Chairman is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes. And all Members will be given 2 days, as provided by House rules, in which to submit additional, dissenting, supplemental, or minority views.

