

By: Martinez Fischer

H.C.R. No. 92

CONCURRENT RESOLUTION

1 WHEREAS, Serious problems in managing the High Plains Aquifer  
2 illustrate the pressing need for interstate compacts concerning  
3 groundwater; and

4 WHEREAS, The High Plains Aquifer is the largest aquifer in  
5 the continental United States, spanning Texas, Colorado, Kansas,  
6 Nebraska, New Mexico, Oklahoma, South Dakota, and Wyoming; with  
7 more water currently being drawn from the aquifer than is being  
8 recharged, it is in jeopardy of depletion in the near future; and

9 WHEREAS, Most of the law governing groundwater is state law,  
10 as states have generally assumed responsibility for managing this  
11 resource; since eight states overlie the High Plains Aquifer, there  
12 are eight different, sometimes conflicting, groundwater doctrines  
13 governing portions of the aquifer; this fractured governance scheme  
14 is inequitable and inefficient and promotes unsustainable use; and

15 WHEREAS, Interstate conflicts over water resources can now  
16 lead to litigation before the United States Supreme Court, which  
17 addresses issues on a case-by-case basis, but they could be  
18 addressed more quickly and comprehensively by an interstate compact  
19 in which the parties can reach an agreement themselves that will  
20 hopefully also resolve future disputes over the interstate water  
21 resource in question; and

22 WHEREAS, The United States Constitution permits states to  
23 enter into binding agreements with one another that are approved by  
24 Congress and thereby become federal law, which can preempt

1 contradictory state law; such interstate compacts are most commonly  
2 used to create an intermediate, regional level of regulation to  
3 resolve problems that extend beyond a single state but do not merit  
4 national attention, and they have been used to manage forest fire  
5 fighting, sanitation, transportation, and other issues when they  
6 cross state boundaries; most notably, there are already numerous  
7 interstate compacts for the allocation of such surface water  
8 resources as rivers, reservoirs, and river basins; and

9         WHEREAS, An interstate compact for groundwater would create a  
10 more equitable and administratively efficient governance regime,  
11 allowing states to work together to safeguard the supply and to  
12 determine a fair distribution of this increasingly precious  
13 resource; now, therefore, be it

14         RESOLVED, That the 82nd Legislature of the State of Texas  
15 hereby urge the United States Congress to enact legislation  
16 authorizing states to enter into interstate compacts concerning  
17 groundwater; and, be it further

18         RESOLVED, That the Texas secretary of state forward official  
19 copies of this resolution to the president of the United States, to  
20 the president of the Senate and the speaker of the House of  
21 Representatives of the United States Congress, and to all the  
22 members of the Texas delegation to Congress with the request that  
23 this resolution be entered in the Congressional Record as a  
24 memorial to the Congress of the United States of America.