

1 **CONCURRENT RESOLUTION URGING**
2 **CONGRESSIONAL APPROVAL OF R.S. 2477**
3 **RIGHTS-OF-WAY RECOGNITION ACT**

4 2008 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Melvin R. Brown**

7 Senate Sponsor: Mike Dmitrich

8
9 **LONG TITLE**

10 **General Description:**

11 This concurrent resolution of the Legislature and the Governor urges the United States
12 Congress to pass R.S. 2477, Rights-of-way Recognition Act.

13 **Highlighted Provisions:**

14 This resolution:

15 ▶ urges the United States Congress to pass R.S. 2477, Rights-of-way Recognition
16 Act, a bill that codifies the principles established in the 10th Circuit Court of
17 Appeals' decision in Southern Utah Wilderness Alliance v. Bureau of Land
18 Management (SUWA v. BLM).

19 **Special Clauses:**

20 None

21
22 *Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

23 WHEREAS, in 1866, the United States Congress passed an open-ended grant of "the
24 right-of-way for the construction of highways over public lands, not reserved for public uses";

25 WHEREAS, the statute, commonly referred to as R.S. 2477, remained in effect for 110
26 years, and most of the transportation routes in the West were established under its authority;

27 WHEREAS, although Congress repealed R.S. 2477 in 1976 by passing the Federal Land
28 Policy Management Act, it purposely protected all rights-of-way established prior to October
29 21, 1976;

30 WHEREAS, unlike any other federal land statute, the establishment of R.S. 2477
31 rights-of-way required no entry, application, license patent, or deed on the part of the federal
32 government, and no formal act of public acceptance on the part of the states or localities in
33 whom the rights were vested;

34 WHEREAS, because R.S. 2477 rights-of-way were not required by the grant to be
35 formally recorded, they have become one of the more contentious land use issues in the West,
36 resulting in on-the-ground conflicts and expensive litigation;

37 WHEREAS, Southern Utah Wilderness Alliance v. Bureau of Land Management
38 (SUWA v. BLM), a 10th Circuit Court of Appeals' order filed January 6, 2006, provides a
39 thoughtful and reasonable way to resolve road disputes between the federal government and
40 counties;

41 WHEREAS, the United States Department of the Interior has developed and issued
42 guidelines implementing the well-reasoned principles in SUWA v. BLM, formerly known as the
43 "Norton Implementation";

44 WHEREAS, certain members of Congress and certain nongovernmental organizations
45 are attempting to defeat the principles of SUWA v. BLM as adopted by the Department of the
46 Interior, and are trying to redefine R.S. 2477 rights-of-way out of existence in order to create
47 additional wilderness across the West, which by definition is roadless;

48 WHEREAS, Representative Steve Pearce of New Mexico has introduced in Congress
49 the "R.S. 2477 Rights-of-Way Recognition Act," a bill that codifies the beneficial principles
50 established in SUWA v. BLM; and

51 WHEREAS, rights-of-way, including roads established under R.S. 2477, are essential
52 transportation routes which are critical to the economic stability and vitality of the rural West:

53 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the
54 Governor concurring therein, urge the United States Congress to support the fair and equitable
55 resolution of R.S. 2477 rights-of-way by enacting the R.S. 2477, Rights-of-Way Recognition
56 Act.

57 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority

58 Leader of the United States Senate, the Speaker of the United States House of Representatives,
59 and to the members of Utah's congressional delegation.