

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

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Melvin R. Brown**

Senate Sponsor: Mike Dmitrich

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This resolution:

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

**Special Clauses:**

None

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

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

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

WHEREAS, although Congress repealed R.S. 2477 in 1976 by passing the Federal



28 Land Policy Management Act, it purposely protected all rights-of-way established prior to  
29 October 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  
43 the "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.

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**Legislative Review Note**  
as of **1-29-08 11:12 AM**

**Office of Legislative Research and General Counsel**

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**Fiscal Note****H.C.R. 5 - Concurrent Resolution Urging Congressional Approval of R.s.  
2477 Rights-of-way Recognition Act**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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