SENATE CS FOR CS FOR HOUSE JOINT RESOLUTION NO. 60(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/2/96
Referred: Rules

Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE

A RESOLUTION

1 Relating to Revised Statute 2477 rights-of-way.

2 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 WHEREAS Revised Statute 2477 (RS 2477) provided, "the right-of-way for the
4 construction of highways over public lands, not reserved for public uses, is hereby granted";
5 and

6 WHEREAS the Congress repealed RS 2477 in 1976 in the Federal Land Policy and
7 Management Act, but the Act expressly reserved existing rights-of-way created under RS
8 2477; and

9 WHEREAS the Alaska State Legislature funded a $1,200,000 project conducted by
10 the Alaska Department of Natural Resources to document the RS 2477 rights-of-way in
11 Alaska; and

12 WHEREAS the project found more than 560 routes that qualified as RS 2477 rights-
13 of-way; and

14 WHEREAS RS 2477 rights-of-way resulted from the public’s use of routes for travel
15 between settlements and to access mineralized areas in Alaska from the late 1800’s until 1968;
16 and

17 WHEREAS it is in the best interests of Alaska to preserve this historical and
traditional rural transportation system because these routes form the transportation network for
surface travel between rural settlements and access to mineralized areas and because the routes
create significant entrepreneurial, recreational, and tourism opportunities for our citizens; and

WHEREAS the State of Alaska is committed to a balanced philosophy of the
development and wise use of Alaska’s scenic beauty, mineral wealth, wildlife, and other
natural resources coupled with environmental protection to ensure that future generations will
experience Alaska as it is known by present generations of Alaskans; and

WHEREAS the surface transportation system in Alaska is inadequate to address the
needs of our state; and

WHEREAS the United States Department of the Interior adopted regulations in 1938
interpreting RS 2477 stating that RS 2477 is "effective upon the construction or establishing
of highways, in accordance with State laws, over public lands not reserved for public uses";
and

WHEREAS the interpretation of RS 2477 by the United States Department of the
Interior remained unchanged until the repeal of the statute when the regulations were also
repealed; and

WHEREAS federal and state courts have consistently ruled for 100 years that it was
the intent of the Congress in enacting RS 2477 that the law of the state where the RS 2477
right-of-way is located defines the acts that constitute acceptance and the scope of the right-of-
way; and

WHEREAS the United States Department of the Interior is attempting to
administratively rescind the long-standing and widely accepted interpretation of RS 2477 by
adopting regulations restrictively defining key statutory terms contrary to the intent of the
Congress and virtually eliminating all RS 2477 rights-of-way in Alaska; and

WHEREAS legislation has been introduced in the United States Senate by Senator
Frank Murkowski and Senator Ted Stevens, and legislation has been introduced in the United
States House of Representatives to preserve the long-standing judicial and executive
interpretation of RS 2477 and to protect the existence of rights-of-way previously granted by
the federal government under RS 2477;

BE IT RESOLVED that the Alaska State Legislature endorses the efforts of the
Alaska delegation in Congress to preserve and protect the original meaning of Revised Statute
2477 to enable this generation and future generations of Alaskans to use the routes established
by Native and pioneer Alaskans; and be it

FURTHER RESOLVED that the Alaska State Legislature respectfully requests the
members of the Alaska delegation in Congress to ensure that federal law recognizes the
controlling nature of state law in regard to the construction and establishment of RS 2477
rights-of-way, as recognized by 100 years of judicial decision and by 38 years of Department
of the Interior regulation by enacting such a provision into federal statutes; and be it

FURTHER RESOLVED that the Alaska State Legislature respectfully requests that
the Congress include a 10-year period and a reasonable process for the assertion, recognition,
and determination of the existence of RS 2477 rights-of-way as part of legislation addressing
RS 2477 rights-of-way.

COPIES of this resolution shall be sent to the Honorable Ted Stevens and the
Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S.
Representative, members of the Alaska delegation in Congress.