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Bullock  
3/29/12

**CS FOR HOUSE JOINT RESOLUTION NO. 40( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SEVENTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES KELLER, Tammie Wilson, Pruitt, Thompson, Millett, Costello, Johansen, Muñoz**

**A RESOLUTION**

1 **Commending the governor and the administration for aggressively working to protect**  
2 **the interests of the state in rights-of-way under R.S. 2477; urging the governor and the**  
3 **attorney general to develop a working alliance with the governors, attorneys general,**  
4 **and legislatures in other western states to protect and enforce the states' interests in**  
5 **ensuring access using rights-of-way authorized by R.S. 2477; urging the governor and**  
6 **the attorney general to support the State of Utah and southern counties of Utah in a**  
7 **lawsuit to enforce Utah's interests in R.S. 2477 rights-of-way by actively seeking**  
8 **confirmation of R.S. 2477 rights-of-way through various means, including initiating**  
9 **litigation; urging the governor and the attorney general to develop a strategy for**  
10 **resolving the dispute over the right to continued access using R.S. 2477 rights-of-way in**  
11 **the state, including the possibility of bringing lawsuits against the federal government to**  
12 **preserve the state's interest in rights-of-way; urging the governor to further strengthen**  
13 **the resources of the state for protecting the state's rights by continuing to focus the**

1 efforts of the Department of Law, the Department of Natural Resources, the  
2 Department of Fish and Game, and other departments on defending the state's rights  
3 and powers with regard to access and federalism issues; urging the United States  
4 Congress to enact legislation requiring federal agencies with land management authority  
5 to establish a process to recognize valid R.S. 2477 rights-of-way claims expeditiously  
6 after a notice of intent to claim an R.S. 2477 right-of-way has been filed without the need  
7 to dispute those claims in court and to participate in good faith in the process.

8 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

9 **WHEREAS**, in 1866, R.S. 2477 granted rights-of-way across unappropriated federal  
10 land to encourage the development of western land; and

11 **WHEREAS** R.S. 2477 rights-of-way were perfected by simple use or development;  
12 and

13 **WHEREAS** R.S. 2477 rights-of-way were established in the state through use or  
14 development until virtually all federal land in the state was withdrawn in 1969; and

15 **WHEREAS**, when R.S. 2477 was repealed in 1976 under the Federal Land Policy  
16 Management Act (43 U.S.C. 1701), valid existing rights under R.S. 2477 were expressly  
17 protected; and

18 **WHEREAS** the Alaska State Legislature has recognized 602 rights-of-way in statute,  
19 and the Department of Natural Resources has identified at least 67 additional valid R.S. 2477  
20 rights-of-way; and

21 **WHEREAS** historic R.S. 2477 rights-of-way represent a key component of the  
22 mandate in art. VIII, sec. 1, of the Constitution of the State of Alaska to encourage the  
23 settlement of the state's land and the development of the state's land and resources; and

24 **WHEREAS** the United States Department of the Interior and the United States Forest  
25 Service refuse to recognize an R.S. 2477 right-of-way unless adjudicated and validated in a  
26 decision by a court of competent jurisdiction; and

27 **WHEREAS** unilateral resistance by the federal government to the existence of the  
28 state's rights-of-way causes great harm to the ability of the state to execute its duty to manage

1 state resources by making them accessible and available for maximum use consistent with the  
2 public interest, as required in art. VIII, sec. 1, of the Constitution of the State of Alaska; and

3 **WHEREAS** the State of Utah recently filed notices of intent to sue to enforce its  
4 interests in more than 18,000 R.S. 2477 rights-of-way in that state; and

5 **WHEREAS** the State of Alaska and the State of Utah share similar objections to the  
6 large withdrawals of Federal Conservation Units that are managed by the United States  
7 Department of the Interior and the United States Forest Service, agencies that both  
8 unilaterally deny the existence of valid state easements; and

9 **WHEREAS** virtually all of the state's natural resource development projects are  
10 unnecessarily burdened by numerous federal laws, including the Endangered Species Act, the  
11 Clean Water Act, and myriad arbitrary federal regulators and policies implementing and  
12 enforcing those and other federal laws;

13 **BE IT RESOLVED** that the Alaska State Legislature commends the governor and the  
14 administration for aggressively working to protect the interests of the state in rights-of-way  
15 under R.S. 2477 and urges the governor and the attorney general to develop a working  
16 alliance with the governors, attorneys general, and legislatures in other western states to  
17 protect and enforce the states' interests in ensuring access using rights-of-way authorized by  
18 R.S. 2477; and be it

19 **FURTHER RESOLVED** that the Alaska State Legislature urges the governor and the  
20 attorney general to support the State of Utah and southern counties of Utah in a lawsuit to  
21 enforce Utah's interests in R.S. 2477 rights-of-way by actively seeking confirmation of R.S.  
22 2477 rights-of-way through various means, including initiating litigation; and be it

23 **FURTHER RESOLVED** that the Alaska State Legislature urges the governor and the  
24 attorney general to develop a strategy for resolving the dispute over the right to continued  
25 access using R.S. 2477 rights-of-way in the state, including the possibility of bringing  
26 lawsuits against the federal government to preserve the state's interest in rights-of-way; and be  
27 it

28 **FURTHER RESOLVED** that the Alaska State Legislature urges the governor further  
29 to strengthen the resources of the state for protecting the state's rights by continuing to focus  
30 the efforts of the Department of Law, the Department of Natural Resources, the Department  
31 of Fish and Game, and other departments on defending the state's rights and powers with

1 regard to access and federalism issues; and be it

2 **FURTHER RESOLVED** that the Alaska State Legislature urges the United States  
3 Congress to enact legislation requiring federal agencies with land management authority to  
4 establish a process to recognize valid R.S. 2477 rights-of-way claims expeditiously after a  
5 notice of intent to claim an R.S. 2477 right-of-way has been filed without the need to dispute  
6 those claims in court and to participate in good faith in the process.