

**First Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO**

REVISED

LLS NO. R05-1076.01 Thomas Morris

HJR05-1069

HOUSE SPONSORSHIP

Plant, and Buescher

SENATE SPONSORSHIP

Grossman,

House Committees

Senate Committees

HOUSE JOINT RESOLUTION 05-1069

101 **CONCERNING A RECOMMENDATION THAT CONGRESS ENACT**
102 **LEGISLATION TO RESOLVE ISSUES RELATED TO THE ASSERTION**
103 **OF RIGHTS-OF-WAY UNDER FEDERAL REVISED STATUTES 2477.**

1 WHEREAS, The United States Congress granted a right-of-way
2 for the construction of highways over public lands not otherwise reserved
3 in section 8 of the federal "Mining Law of 1866", reenacted and
4 recodified as Revised Statutes 2477, 43 U.S.C. sec. 932 (repealed
5 October 21, 1976); and

6

7 WHEREAS, Identifying, asserting, maintaining, and protecting
8 legitimate highway rights-of-way can be useful to protect the state of
9 Colorado's social and economic resources and to promote public health
10 and safety, including, but not limited to, search and rescue, fire
11 protection, health and law enforcement, and other emergency services;
12 and

13 WHEREAS, The state of Colorado and its counties have a critical

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Final Reading
May 9, 2005

HOUSE
Final Reading
May 9, 2005

1 role to play regarding the inventorying, maintenance, and abandonment
2 of roads, including R.S. 2477 rights-of-way, in manners that protect or
3 enhance each local jurisdiction's socioeconomic status; and

4 WHEREAS, Colorado's national parks, national monuments,
5 national wildlife refuges, wilderness, wilderness study areas, and other
6 pristine wildlands provide a wealth of valuable resources and services,
7 including fish and wildlife, drinking water, recreation, scenery, tourism,
8 and pride in natural heritage that benefit our state and local economies;
9 and

10 WHEREAS, Managing national parks, national monuments,
11 national wildlife refuges, wilderness, wilderness study areas, and other
12 pristine wildlands for their conservation, cultural, historic, scenic, and
13 recreation values is in the best interest of the state and its counties; and

14 WHEREAS, R.S. 2477 rights-of-way across such lands could
15 harm these enumerated values; and

16 WHEREAS, The debate concerning R.S. 2477 rights-of-way has
17 created uncertainty and confusion regarding jurisdiction over and
18 management of affected public lands, in part because asserted
19 rights-of-way traverse private, county, state, tribal, and federal land
20 management boundaries; and

21 WHEREAS, Unresolved R.S. 2477 rights-of-way have resulted in
22 conflicts concerning passage over private property that have in some
23 cases resulted in litigation, allegations of trespass, and property damage;
24 and

25 WHEREAS, The burden of maintenance across private property
26 for these R.S. 2477 rights-of-way has generally remained, by default, the
27 responsibility of the private property owners even upon use by the public;
28 and

29 WHEREAS, In order to provide certainty to private property
30 owners and protect Colorado's natural treasures, it is in the state of
31 Colorado's interests to resolve the R.S. 2477 issue expeditiously by
32 establishing a national process with consistent standards and setting a
33 deadline by which all R.S. 2477 claims must be asserted; and

34 WHEREAS, Entities can gain rights-of-way to cross millions of
35 acres of lands managed by the federal Bureau of Land Management and
36 the United States Forest Service using the process and powers outlined in
37 title V of the "Federal Land Policy and Management Act of 1976"; and

38 WHEREAS, Federal public lands are generally open to pedestrian
39 and equestrian travel, and thousands of miles of existing motor vehicle
40 routes currently traverse federal public lands; and

41 WHEREAS, Congress has previously asserted its prerogative that
42 it, and not any agency of the federal government, is the best venue for
43 balancing the competing values involving R.S. 2477; now, therefore,

1 *Be It Resolved by the House of Representatives of the Sixty-fifth*
2 *General Assembly of the State of Colorado, the Senate concurring*
3 *herein:*

4 (1) That, if Congress determines that the existing regulatory
5 procedures are inadequate, it should enact legislation to resolve and
6 address issues related to R.S. 2477 rights-of-way on federal, state, tribal,
7 and private lands; and

8 (2) That any such legislation should:

9 (a) Contain deadlines that do not put an undue burden on counties
10 and local jurisdictions for asserting R.S. 2477 claims so that this issue can
11 be resolved in a timely fashion and concluded;

12 (b) Include comprehensive opportunities for the public to be
13 heard;

14 (c) Include heightened protection for private lands;

15 (d) Include heightened protection for national park units, national
16 monuments, national conservation areas, national wildlife refuges,
17 wilderness, and roadless areas; and

18 (e) Include national standards for determining what is a R.S. 2477
19 right-of-way.

20 *Be It Further Resolved,* That copies of this Joint Resolution be
21 sent to President George W. Bush, Secretary of the Interior Gale Norton,
22 and the members of Colorado's Congressional Delegation.