

Introduced by

Senators Kessel, Luick, Wanzek, Weber

Representative Thomas

(Approved by the Delayed Bills Committee)

1 A concurrent resolution urging the Administrator of the United States Environmental Protection
2 Agency to fully reinstate, and strictly abide by the October 17, 2017, memorandum titled
3 *Adhering to the Fundamental Principles of Due Process, Rule of Law, and Cooperative*
4 *Federalism in Consent Decrees and Settlement Agreements*; to promulgate and enforce only
5 environmental regulations that appropriately take into account public and private fiscal impacts
6 as well as the nation's continuing food security and energy security; and to defer to and work
7 together in good faith with all sovereign states in the spirit of cooperative federalism.

8 **WHEREAS**, on October 16, 2017, United States Environmental Protection Agency
9 Administrator E. Scott Pruitt issued the ethical memorandum entitled *Adhering to the*
10 *Fundamental Principles of Due Process, Rule of Law, and Cooperative Federalism in Consent*
11 *Decrees and Settlement Agreements* that rightly banned the United States Environmental
12 Protection Agency from deigning to regulate through litigation by means of engaging in "sue and
13 settle" litigation practices or participating in "friendly lawsuits"; and

14 **WHEREAS**, less than five years later, on March 18, 2022, United States Environmental
15 Protection Agency Administrator Michael S. Regan subsequently formally and brazenly revoked
16 the United States Environmental Protection Agency's standing, highly principled memorandum;
17 and

18 **WHEREAS**, upon the revocation of the memorandum, the United States Environmental
19 Protection Agency consequently has returned to resolving litigation through consent decrees
20 and settlement agreements that readily appear to be the result of collusion with outside groups;
21 and

22 **WHEREAS**, the United States Environmental Protection Agency's consequent return to
23 regulation through litigation violates due process, the rule of law, and cooperative federalism,
24 and subsequently causes sovereign states and persons substantial economic uncertainty, legal
25 uncertainty, liability uncertainty, and regulatory uncertainty; and

1 **WHEREAS**, the United States Environmental Protection Agency's consequent
2 overwhelming cascade of new and proposed costly and unnecessary regulations burdening the
3 state's agriculture economy is unprecedented, crushing the ability of the state's producers to
4 produce safe and affordable food, feed, fuel, and fiber reliably and efficiently for the nation; and

5 **WHEREAS**, the United States Environmental Protection Agency's consequent unbridled
6 approach of issuing and enforcing unbalanced and unwarranted regulations is unduly stifling the
7 state's economy by erecting needless barriers to critical energy development and production,
8 consequently adversely affecting the nation's energy security; and

9 **WHEREAS**, the United States Environmental Protection Agency's consequent overbearing
10 regulatory burdens are far too costly and onerous relative to the supposed environmental
11 protection benefits provided; and

12 **WHEREAS**, the United States Environmental Protection Agency shall consistently base
13 each of its regulatory decisions on a foundation of sound empirical science and good
14 governance, and not condescend to engage in unethical agency practices to align with or
15 placate environmental activist alarmism or other agenda-driven political or ideological pressure;
16 and

17 **WHEREAS**, individual sovereign states and local communities steadfastly remain best
18 positioned and retain primary responsibility to regulate and provide balanced and effective
19 environmental oversight in achieving and maintaining clean air, clear water, and healthy soils
20 within their respective jurisdictions;

21 **NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE**
22 **HOUSE OF REPRESENTATIVES CONCURRING THEREIN:**

23 That the Sixty-eighth Legislative Assembly urges the Administrator of the United States
24 Environmental Protection Agency to fully reinstate, and strictly abide by the October 17, 2017,
25 memorandum titled *Adhering to the Fundamental Principles of Due Process, Rule of Law, and*
26 *Cooperative Federalism in Consent Decrees and Settlement Agreements*; to promulgate and
27 enforce only environmental regulations that appropriately take into account public and private
28 fiscal impacts as well as the nation's continuing food security and energy security; and to defer
29 to and work together in good faith with all sovereign states in the spirit of cooperative
30 federalism; and

1 **BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this resolution
2 via certified mail with return receipt requested to the Administrator of the United States
3 Environmental Protection Agency, the United States Secretary of Agriculture, the United States
4 Secretary of Energy, the United States Secretary of the Interior, the Director of the United States
5 Fish and Wildlife Service, the Commanding General of the United States Army Corps of
6 Engineers, and each member of the North Dakota Congressional Delegation.