

Introduced by

Representatives Kasper, Delzer, Dosch, Wrangham

Senators Cook, Dever

(Approved by the Delayed Bills Committee)

1 A concurrent resolution urging the United States Environmental Protection Agency to approve  
2 North Dakota's plan for addressing regional haze and urging Congress to clearly delegate  
3 responsibility for the regulation of regional haze and minor source air permitting to the states.

4 **WHEREAS**, in Section 101 of the Clean Air Act, Congress determined that preventing and  
5 controlling air pollution "is the primary responsibility of States and local governments" and the  
6 Act is designed to prevent the federal government from substituting its inflexible judgment for a  
7 state's superior knowledge of local conditions and needs; and

8 **WHEREAS**, in *American Corn Growers Association v. E.P.A.*, 291 F.3d 1, 2 (D.C. Cir. 2002),  
9 the United States Court of Appeals for the District of Columbia Circuit held that the Clean Air Act  
10 "calls for states to play the lead role in designing and implementing regional haze programs";  
11 and

12 **WHEREAS**, the North Dakota State Department of Health developed a reasonable plan for  
13 addressing regional haze and this state's air is among the nation's cleanest in the nation with  
14 the 2010 American Lung Association ranking Mercer County, home to several coal-based power  
15 plants, as one of the 25 cleanest counties in the United States and ranking Billings County,  
16 home to Theodore Roosevelt National Park and significant oil and gas development, as the third  
17 cleanest; and

18 **WHEREAS**, the United States Environmental Protection Agency has noticed its intention in  
19 the Federal Register to disapprove a portion of this state's plan for addressing regional haze  
20 and impose a federal plan in its place that mandates an inappropriate technology, selective  
21 catalytic reduction, that is not proven on boilers using this state's high-sodium lignite and which  
22 when tested through a pilot study, the technology failed after two months; and

23 **WHEREAS**, when one compares the United States Environmental Protection Agency's plan  
24 to this state's plan there is no significant improvement in visibility under the United States  
25 Environmental Protection Agency's plan, so much so that the visibility improvements the United

1 States Environmental Protection Agency claims would result from its plan are not even humanly  
2 perceptible; and

3 **WHEREAS**, the North Dakota State Department of Health found that international and  
4 out-of-state sources are the most significant cause of impaired visibility in the state's national  
5 parks and wilderness areas, and that even if every coal plant and oil drilling rig in the state were  
6 shut down, the Environmental Protection Agency's visibility goals could not be met because the  
7 problem is caused by sources outside this state; and

8 **WHEREAS**, this state has crafted an implementation plan that takes into account the  
9 various technology options available to oil and gas operators to reduce emissions of volatile  
10 organic compounds; and

11 **WHEREAS**, this state's natural gas gathering and processing industry has committed more  
12 than \$3 billion to build infrastructure that will capture and market flared gas; and

13 **WHEREAS**, the United States Environmental Protection Agency is ignoring this state's  
14 authority and local knowledge and the Environmental Protection Agency's proposed action  
15 would unnecessarily jeopardize this state's sovereignty and economic well-being;

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

18 That the Sixty-second Legislative Assembly urges the United States Environmental  
19 Protection Agency to approve North Dakota's plan for addressing regional haze and urges  
20 Congress to clearly delegate responsibility for the regulation of regional haze and minor source  
21 air permitting to the states; and

22 **BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this resolution  
23 to the administrator of the United States Environmental Protection Agency and to each member  
24 of the North Dakota Congressional Delegation.