Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023

SENATE CONCURRENT RESOLUTION NO. 4017
(Senators Kessel, Luick, Wanzek, Weber)
(Representative Thomas)
(Approved by the Delayed Bills Committee)

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

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

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

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

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

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

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

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

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

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

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

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

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

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President of the Senate

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Secretary of the Senate

Filed in this office this _____day of _____, 2023,

at _____ o'clock _____M.

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Secretary of State