

**2025 HOUSE AGRICULTURE**

**HCR 3018**

# 2025 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Room JW327C, State Capitol

HCR 3018  
2/13/2025

A concurrent resolution directing the Legislative Management to consider studying water and wetlands regulations and the taxation of inundated lands in the state.

9:00 a.m. Vice Chairman Hauck opened the meeting.

Members Present: Chairman Beltz, Vice Chairman Hauck, Representatives Anderson, Henderson, Holle, Kiefert, Nehring, Olson, Rios, Schreiber-Beck, Tveit, Vollmer

Members Absent: Representative Dobervich, Hoverson

## **Discussion Topics:**

- Water issues
- Property tax on flooded water
- Environmental stewardship
- Wetland oversight
- Orderly water management
- Clarity land consistency

9:01 a.m. Representative Mike Beltz, District 20, Hillsboro, ND, introduced and testified.

9:03 a.m. Representative Kathy Frelich, District 15, Devils Lake, ND, testified in favor and proposed amendment submitted #37679.

9:09 a.m. Ryan Gregg, Legislative Specialist, ND Farmers Union, testified in favor and submitted testimony #37573.

9:12 a.m. Dan Wogsland, Lobbyist, ND Grain Growers Association, testified in favor and submitted testimony #37563.

9:13 a.m. Haley Vollmer, Lobbyist, ND Corn Growers Association, testified in favor and submitted testimony #37559.

9:18 a.m. Representative Henderson Adopt Amendment (presented by Kathy Frelich, #37679) and to further amend "to shall study".

9:18 a.m. Representative Tveit seconded the motion.

Voice vote

Motion passed

9:19 a.m. Representative Anderson moved Do Pass as amended.

9:19 a.m. Representative Henderson seconded the motion.

<b>Representatives</b>	<b>Vote</b>
Representative Mike Beltz	Y
Representative Dori Hauck	Y
Representative Karen A. Anderson	Y
Representative Gretchen Dobervich	AB
Representative Donna Henderson	Y
Representative Dawson Holle	Y
Representative Jeff Hoverson	AB
Representative Dwight Kiefert	Y
Representative Dennis Nehring	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	Y
Representative Daniel R. Vollmer	Y

Motion passed 12-0-2.

9:22 a.m. Representative Olson will carry the bill.

**Additional written testimony:**

Dean A. Holstad, Missoula, MT, submitted testimony in favor #37541, # 37542, #37677 and #37678.

9:22 a.m. Chairman Beltz closed the hearing.

*Diane Lillis, Committee Clerk*

February 13, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO**

Introduced by

**HOUSE CONCURRENT RESOLUTION NO. 3018**

Representatives Beltz, Brandenburg, Frelich, Grueneich, Mitskog, Schreiber-Beck, Swiontek,  
Weisz

Senators Sorvaag, Thomas, Wanzek

1 A concurrent resolution directing the Legislative Management to consider studying water and  
2 wetlands regulations and the taxation of inundated lands in the state.

3 **WHEREAS**, the management of water and wetlands resources is a complex issue with  
4 significant implications for public health, economic development, and agriculture; and

5 **WHEREAS**, the jurisdiction over water and wetlands often is unclear and involves multiple  
6 levels of government, including federal, state, and local agencies; and

7 **WHEREAS**, overlapping jurisdictions can create confusion, delays, and inconsistencies in  
8 the regulation and management of water and wetlands; and

9 **WHEREAS**, boards of county commissioners are authorized to remove from the tax rolls all  
10 inundated lands, often resulting in inconsistent application; and

11 **WHEREAS**, a comprehensive study of the jurisdictional framework is necessary to identify  
12 potential conflicts, overlaps, and gaps in authority and tax treatment; and

13 **WHEREAS**, a study will provide valuable information to the Legislative Assembly in  
14 developing effective and efficient policies for the protection and management of water and  
15 wetlands resources; and

16 **WHEREAS**, addressing confusion and property disputes caused by the declaration of  
17 navigability and property titles deriving from patents issued by the United States will provide  
18 valuable information to the Legislative Assembly concerning the determination of lawful  
19 ownership and tax treatment;

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



1 That Legislative Management shall consider studying water and wetlands regulations and  
2 the taxation of inundated lands in the state; and

3 **BE IT FURTHER RESOLVED**, the study must include an examination of the regulation of  
4 water, wetlands, and inundated lands laws of other states; an inventory of all federal, state, and  
5 local laws, regulations, and policies relating to the jurisdiction of water and wetlands; an  
6 analysis of the environmental protection and public health jurisdictional framework, including an  
7 identification of potential conflicts, overlaps, and gaps in authority; and recommendations for  
8 improving the clarity, consistency, and efficiency of the jurisdictional framework in water  
9 management; and

10 **BE IT FURTHER RESOLVED**, that the Legislative Management report its findings and  
11 recommendations, together with any legislation required to implement the recommendations, to  
12 the Seventieth Legislative Assembly.

**REPORT OF STANDING COMMITTEE  
HCR 3018**

**Agriculture Committee (Rep. Beltz, Chairman)** recommends **AMENDMENTS** ([25.3080.01001](#)) and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HCR 3018 was placed on the Sixth order on the calendar.

**From:** [dean@hoistadlaw.com](mailto:dean@hoistadlaw.com)  
**To:** [mbelitz@ndlegis.gov](mailto:mbelitz@ndlegis.gov); "Kathy"  
**Subject:** Request for Amendment to Concurrent Resolution 3018  
**Date:** Wednesday, February 12, 2025 10:05:28 PM  
**Attachments:** [Patent Parcel of Dean, Dale and Dick Hoistad.PDF](#)

---

My name is Dean A. Hoistad. I reside at 2100 Lincoln Hills Dr. in Missoula, Montana 59802, phone 406-239-5000. I and my two brothers, who reside in Seattle, WA, own undivided interests in a parcel of inundated land located in DeGroat Township of Ramsey County in District 15. The land has been in our family for generations. See attached Patent establishing the original transfer of ownership before statehood. After the property was inundated around 2012, my father enrolled in a ten-year water storage program with NRCS which provided guaranteed annual payments. Following my father's death in 2020, I began managing my mother's affairs, including the inundated property.

I telephoned Gary Heiser, the Sovereign Land Manager, and asked him if my mother should continue paying annual property tax assessments from Ramsey County. He informed me the state owns all land in Ramsey County inundated by water connected with navigable Devils Lake, and said it makes no sense for anyone to pay property taxes on land they don't own. I asked him about the risk of the county foreclosing on the land if the taxes were not paid, and he informed me the county could never provide a legal title or proof of valid ownership if it foreclosed on state-owned property and sold it at auction for back taxes.

In the spring of 2023, when our mother died, my brothers and I became joint owners of the property. Later that year the NRCS water bank storage contract terminated. Despite our best efforts, all attempts to enter a new water storage contract failed. Therefore, in the summer of 2023, I met with Gary Heiser at his office in the DWR to revisit the question of ownership. During our face-to-face meeting, he reiterated what he had told me in our previous telephone conversation and promised he would provide the information in writing so I could share it with my brothers.

In December 2023, I telephoned Andrea Travnicek, the Director of DWR, about the status of Mr. Heiser's responses to my written questions and answers to some additional questions I had about other issues. She assured me my questions to Mr. Heiser about our ownership, along with the other information I requested, would be provided.

In May 2024, I received the following answers to my questions about our inundated property ownership:

What is the status of preparing the answers to the questions set forth in my email to the Sovereign Land Manager, G. Heiser, following our meeting at his office in July? We discussed the

questions and his responses which we had previously discussed in an earlier telephone conversation roughly a year before. See the attached copy of my email documenting our meeting and setting forth my questions. Mr. Heiser said he would provide written responses and I would like to know when I might expect to receive them.

You followed up your August 4, 2023, meeting with Mr. Heiser with an August 4, 2023 email that listed 6 specific questions (copied below). The DWR's legal counsel has the following response to the questions asked:

In *Matter of Ownership of Bed of Devils Lake*, 423 N.W.2d 141 (N.D. 1988), the North Dakota Supreme Court affirmed the district court's judgment "that the OHWM follows the fluctuating elevation of Devils Lake." *Id.* at 143. Shortly thereafter, the 8<sup>th</sup> circuit in *101 Ranch v. United States*, 905 F.2d 180, 185 (8th Cir. 1990) affirmed the State's title in trust for the public to "lands which are or will become submerged." Therefore, the State claims title and holds in trust for the public the land submerged by Devils Lake up to the current OHWM, as it exists from time to time. For the remainder of the questions, the Hoistads' will need to seek their own legal counsel.

1. Who owns the Hoistad brothers' land, them or the state?
2. If the state owns their land when and how did the state obtain ownership of their land?
3. Is the dry portion of their land owned by the state or is only the inundated portion owned by the state?
4. Are Hoistad brothers required to pay property taxes on their land to Ramsey County while their land is owned by the state?
5. Are Hoistad brothers required to turn over to the state any payments they receive for their land from NRCS or other government agencies, so long as their land is owned by the state?
6. Do Hoistad brothers have legal liability for what occurs on their land so long as it owned by the state?

Requiring inundated landowners to pay for uncertain answers to basic legal ownership questions is unfair. On behalf of my brothers and other inundated patent landowners, I respectfully request Concurrent Resolution 3018 be amended to include language providing for the investigation and clarification of inundated pre-statehood patent land ownership and that the following language be inserted between lines 15 and 16:

WHEREAS, a study addressing the confusion and conflicts caused by the declaration of navigability and titles vested by patents from the United States will provide valuable information to the Legislative Assembly concerning the determination of

lawful ownership and tax treatment;



# THE UNITED STATES OF AMERICA.

To all to whom these Presents shall come, Greeting:

CERTIFICATE

No.

698

Territory

Whereas Philip Shaver of Ramsey County Dakota

has deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Devils Lake Dakota Territory whereby it appears that full payment has been made by the said Philip Shaver

according to the provisions of the Act of Congress of the 24th of April, 1820, entitled "An Act making further provision for the sale of the Public Lands," and the acts supplemental thereto, for the south half of the south-east quarter of section twenty-one and the north half of the north-east quarter of section twenty-eight in township one hundred and fifty-six north of range sixty-five west of the Fifth Principal Meridian in Dakota Territory containing one hundred and sixty acres

according to the Official Plat of the Survey of the said Lands, returned to the General Land Office by the Surveyor General, which said Tract had been purchased by the said Philip Shaver

Now know ye, That the United States of America, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant unto the said Philip Shaver

and to his heirs, the said Tract above described: To have and to hold the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereto belonging, unto the said Philip Shaver

and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law.

In testimony whereof I, Grover Cleveland

President of the United States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the nineteenth

day of November, in the year of our Lord one thousand eight hundred and eighty-seven, and of the Independence of the United States the one hundred and twelfth

L. S.

By the President: Grover Cleveland

By M. McLean

, Secretary.

Robt. W. Ross

, Recorder of the General Land Office.



**In Favor of HCR 3018**  
**House Agriculture**  
**February 13, 2025**

Chairman Beltz and Committee members:

For the record, my name is Haley Vollmer. Thank you for the opportunity to testify on behalf of the North Dakota Corn Growers Association (NDCGA) in favor of House Concurrent Resolution 3018.

NDCGA supports this effort to bring clarity and consistency to water and wetlands regulations in North Dakota. As evidenced by the number of related bills this session, this is a timely topic for study with significant implications for agriculture.

NDCGA urges a Do Pass recommendation on HCR 3018. Thank you for your consideration.



**North Dakota Grain Growers Association  
Testimony in Support for HCR 3018  
House Agriculture Committee  
February 13, 2025**

Chairman Beltz, Members of the House Agriculture Committee, for the record my name is Dan Wogsland and I am here today on behalf of the North Dakota Grain Growers Association (NDGGA) to express support for House Concurrent Resolution No. 3018. We believe this resolution represents an essential step toward addressing the complexities of water and wetlands regulations and the taxation of inundated lands in North Dakota.

**The Need for a Comprehensive Study**

Water management and wetlands regulation are critical issues for North Dakota's agricultural producers. Farmers and landowners routinely face challenges due to unclear jurisdictional authority, inconsistent regulatory interpretations, and tax implications for inundated lands. As water and wetlands regulations often involve multiple levels of government including federal, state, and local agencies producers are frequently caught in a web of conflicting rules that hinder land use and economic productivity.

Additionally, inundated lands that are removed from tax rolls pose financial uncertainties for local governments while raising concerns among affected landowners. A thorough study of taxation policies on such lands is crucial to ensuring fairness, consistency, and predictability for both landowners and local governing entities.

**Key Areas of Concern for Agriculture**

**1. Regulatory Uncertainty.** Overlapping federal and state wetlands regulations create confusion for landowners attempting to manage their land while complying with conservation requirements. A study will help clarify these regulations and suggest ways to streamline permitting and compliance.

**2. Economic and Taxation Impacts.** The inconsistent application of tax exemptions for inundated lands can create unintended financial burdens for landowners while affecting county tax revenues. Examining taxation policies in other states could provide insights into more equitable solutions.



**3. Impact on Land Use and Productivity.** Water management policies that fail to account for the realities of farming can lead to unnecessary restrictions on agricultural land, diminishing its value and productivity. A clearer framework would help balance environmental protection with agricultural viability.

## **Conclusion**

NDGGA supports the passage of HCR 3018 and urges the Legislature to move forward with this critical study. By conducting a thorough review of existing regulations, taxation policies, and jurisdictional frameworks, North Dakota can develop more efficient, transparent, and fair policies that serve the interests of farmers, landowners, and local governments.

Thank you for your time and consideration. I am happy to answer any questions.



Contact:  
**Ryan Gregg, Lobbyist**  
[rgregg@ndfu.org](mailto:rgregg@ndfu.org) | 701 952- 0104

---

**Testimony of  
Ryan Gregg  
North Dakota Farmers Union  
Regarding HCR 3018  
House Agriculture Committee  
February 13, 2025**

---

Hello Chairman Beltz and members of the committee,

I am Ryan Gregg, legislative specialist for the North Dakota Farmers Union (NDFU). We strongly support HCR 3018, a comprehensive study of North Dakota's water, wetland, and inundated lands issues.

Our farmer members understand the critical link between agricultural productivity and environmental stewardship. We support protecting both farms and infrastructure from excess water. The study outlined in HCR 3018 may provide vital information and data to explore options to better manage water and inundated land.

NDFU appreciates the measure's approach to review the current multi-layered oversight of wetlands, waterlogged and inundated lands which creates confusion due to a blend of federal, state, and local regulations. The study should identify conflicts, overlaps, and gaps in responsibility with recommendations for streamlining.

Additionally, different jurisdictions apply varied tax treatment and assessment modifiers for inundated lands. The study should analyze current practices and recommend a more equitable approach.

NDFU supports empowering landowners in water management. When dealing with farmed wetlands, primary consideration should be given to the economic impact on production agriculture. We hope the study will identify options for landowners to manage water within the boundaries of their property without regulation or interference.

We think the study should also examine water's impact on road infrastructure, including culverts and bridges, and ensure adequate conveyance standards, balancing flood prevention with agricultural needs.

NDFU believes this study will provide the information necessary for effective, balanced water policies, and we urge the committee to give it a "Do Pass" recommendation. Thank you.

August 13, 2024

Office of the North Dakota Attorney General  
600 E. Blvd. Ave.  
Department 125  
Bismarck, North Dakota  
58505

Re: Joint Request by four Ramsey County Townships for Attorney General Opinion

Dear Attorney General Wrigley:

BACKGROUND

The Ramsey County State's Attorney recently submitted a letter dated 6/18/2024, asking four questions about land ownership issues around Devils Lake.<sup>1</sup> That letter and the questions are adopted and incorporated by reference as if set forth herein. Townships are local government bodies. Like counties, townships also have specific governing duties, responsibilities, and functions, including maintaining safe township roads, assessing private property, and regulating land usage as permitted. The four undersigned Ramsey County Townships submit this joint request to obtain your answers to the questions submitted by the Ramsey County State's Attorney. In addition, the undersigned Townships ask for a legal opinion on the following questions under North Dakota law.

ADDITIONAL QUESTIONS PRESENTED BY FOUR TOWNSHIPS IN RAMSEY COUNTY

1. Can the state artificially hold back navigable water to connect it with non-navigable water bodies and claim ownership of inundated land without paying for taking private property for public use located under the non-navigable bodies?
2. Is N.D.C.C. § 61-33 applicable for identifying the boundaries of Devils Lake navigable water and delineating the navigable water from non-navigable adjoining lakes, inflowing tributaries, and wetlands? If so, what can be done to require the state to identify the boundaries between Devils Lake navigable water and connected areas of non-navigable water around Devils Lake?

---

<sup>1</sup> 1. If previously identified "navigable water" and "non-navigable waters" merge into a single continuous body of water, is the water considered "navigable" subject to N.D.C.C. § 61-33?

2. Does the analysis of navigability change if the merger was natural or artificial?

3. Are patent parcels exempt from claims of State ownership when state water has inundated said patent parcels?

4. If patent parcels are not exempt, by what lawful authority is the State exercising its claims to the inundated patent parcels?

3. When does a taking by non-navigable water occur in a flood situation characterized as an Act of God? See, Aasmudstad v State 2008 N.D. 206. Does the fact the state artificially manipulates the level of Devils Lake every year affect when a taking occurs? Can there be a new taking every year because of the artificial manipulation of Devils Lake's water level?
4. Does township authority and responsibility to repair and maintain township roads for public safety shift to the state while township roads are inundated by navigable Devils Lake water? If the state owns all land, including township roads, inundated by navigable Devils Lake water, who is responsible for repairing damage caused by navigable state water when it recedes?

#### ADDITIONAL FACTS

The undersigned Townships are in northwest Ramsey County and contain some of the hardest-hit agriculture areas and communities. There are numerous inundated patent parcels throughout Ramsey County that the federal government transferred to private homesteaders, railroads, and others before North Dakota became a state. Most homestead patent parcels were continuously farmed from before statehood until Devils Lake's current condition developed; many owners of patent parcels and adjoining deeded land have lost their ancestral homes and livelihoods. As a result, our Townships no longer have the financial wherewithal to fulfill some of our duties requiring property assessments, much less manage flood-related issues and pursue litigation for answers to these questions. Your responses will therefore guide our decision-making on how to proceed.

Thank you for responding to this Joint Township request under North Dakota law.

Respectfully submitted,



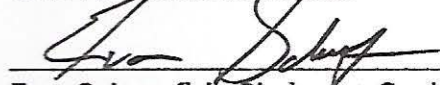
Karen Hausmann, Chairman, Chain Lakes Township, Ramsey County, N.D.  
6008 Hwy 281, Churchs Ferry, ND



Dan Erickstad, Chairman, DeGroat Township, Ramsey County, N.D.  
8115 65<sup>th</sup> St. NE, Webster, ND



Ryan Schemioneck, Chairman, Dry Lake Township, Ramsey County, N.D.  
5811 73<sup>rd</sup> Ave NE, Penn, ND



Evan Schoenfish, Chairman, Coulee Township, Ramsey County, N.D.  
5686 70<sup>th</sup> Ave NE, Penn, ND





COUNTY OF RAMSEY  
OFFICE OF THE STATE'S ATTORNEY  
524 Fourth Avenue NE, Unit 16  
Devils Lake, ND 58301  
(701) 662-7077

BEAU M. CUMMINGS  
STATES ATTORNEY

**June 18, 2024**

Office of Attorney General  
600 E. Boulevard Ave, Dept. 125  
Bismarck ND 58505

***RE: Request for Attorney General's Opinion***

Attorney General Wrigley:

[¶1] Please consider this letter as a request for a legal opinion pursuant to section 54-12-01 of the North Dakota Century Code.

**BACKGROUND INFORMATION**

[¶2] In October of 2023, a local landowner approached the Board of County Commissioners for Ramsey County (hereafter "Commission") with several questions of administrative law, water law, tax law, and the sovereign land doctrine. The several materials offered by the landowner discuss the ambulatory nature of Devils Lake and patent parcels. After due consideration, the Commission made and carried a motion to request an Attorney General's opinion. The Ramsey County State's Attorney's Office was directed to review the materials provided and draft an opinion request.

### **QUESTIONS PRESENTED**

1. If previously identified “navigable waters” and “non-navigable waters” merge into a single continuous body of water, is the water considered “navigable” subject to N.D.C.C. § 61-33?
2. Does the analysis of navigability change if the merger was natural or artificial?
3. Are patent parcels exempt from claims of State ownership when state water has inundated said patent parcels?
4. If patent parcels are not exempt, by what lawful authority is the State exercising its claim to the inundated patent parcels?

### **STATEMENT OF FACTS**

[¶] Devils Lake (hereafter "Lake") is a large freshwater body of water located in northeastern North Dakota. The Lake is situated between Ramsey County, Benson County, and the Spirit Lake Indian Reservation. The Lake is located entirely within the Devils Lake Basin which covers approximately 3,810 square miles of land area spanning across eight counties. The Basin is closed and therefore has no natural outlet below 1,446.5 feet above sea level. Historically, the Lake has fed into nearby Stump Lake but because both lakes are part of the same closed basin system the water levels would need to rise 1,457 feet above sea level before there is any natural outlet. Since modern records have been maintained the Lake's elevation has fluctuated and hundreds of thousands of acres of agricultural and residential lands have been inundated throughout the Basin due to flooding.

[¶]4 In 1940 the low-water mark was recorded at 1,401 feet above sea level, and in 2011 the corresponding high-water mark was recorded at 1,454.3 feet above sea level.<sup>1</sup> In 2002 construction began on an artificial outlet from the West Bay of the Lake to combat the inundation and flooding of communities, agricultural land, homes, roads, and other facilities.<sup>2</sup> The West outlet pumps water from Devils Lake into the Sheyenne River and have a discharge capacity of 250 cubic feet per second . In 2012, the State of North Dakota constructed an additional artificial outlet from East Devils Lake to combat record levels of rainfall. The East outlet has a discharge capacity of 350 cubic feet per second, which results in a combined discharge capacity of 600 cubic feet per second. Between 2012 and 2020 it is estimated that over 1.3 million acre-feet of water has been drained from the Lake. The several sub-basins, lakes, and coulees that exist within the Basin are as follows:

[T]he Stump Lake drainage basin, which drains directly into Stump Lake, and eight other sub-basins that ultimately drain into Devils Lake- the Edmore Coulee sub-basin located in Nelson, Ramsey, and Cavalier Counties; the Starkweather Coulee sub-basin located in Cavalier and Ramsey Counties; the Calio Coulee sub-basin located in Cavalier, Ramsey, and Towner Counties; the Mauvais Coulee sub-basin located primarily in Towner, Benson, and Ramsey Counties; the Little Coulee sub-basin located in Benson, Pierce, and Rolette Counties; the Comstock Coulee sub-basin located in Benson County; the Devils Lake North Slope sub-basin located in Ramsey County; and the Devils Lake South Slope sub-basin located in Benson County.<sup>3</sup>

---

<sup>1</sup> Water Resource Board Fact Sheet

<sup>2</sup> [https://www.dwr.nd.gov/basins/devils\\_lake/outlets/](https://www.dwr.nd.gov/basins/devils_lake/outlets/).

<sup>3</sup> Aasmundstad v. State, 2008 ND 206, 763 N.W.2d 748.

[¶5] Due to the flood prevention practices of Federal, State, and local entities the land surrounding these sub-basins, lakes, and coulees have been inundated for such an extended period that they could be characterized as “permanently flooded.” The use and utility of the inundated lands vary from parcel to parcel as some landowners have only lost access to a portion of their lands, while others have had their lands rendered unusable. Although most effected landowners hold ordinary fee simple title to their parcels, there are also some that hold federal land patents that were granted at or prior to North Dakota’s admission into the Union. Based on the guidance provided in prior court decisions, Attorney General opinions, flood management practices, and navigable waters doctrine, landowners have begun to raise questions regarding marketability and the title of their parcels.

#### **APPLICABLE LAW**

[¶6] American colonies who achieved sovereignty and independence from Great Britian held “the absolute right to all their navigable waters and the soils under them ... subject only to the rights since surrendered by the constitution to the general government.” Martin v. Waddell's Lessee, 41 U.S. 367, 41 O (1842). Since the beds of navigable waters were not surrendered by the U.S. Constitution to the federal government, they were retained by the states. Mumford v. Wardwell, 73 U.S. 423, 436 (1867). New states admitted to the Union were entitled to the same rights as those held by the original states. Id.; Pollard v. Hagan, 44 U.S. 212, 224, 228-29 (1845). This concept is known as the equal footing doctrine. See Utah Division of State Lands v. United States, 482 U.S. 193, 195-196 (1987). North Dakota's Enabling Act



provides that North Dakota shall be “admitted ... into the union ... on an equal footing with the original States ....” 25 Stat. 676, 679 (1889) reprinted in 13 N.D.C.C. p. 63 (1981).

[¶7] Under the equal footing doctrine, upon North Dakota's admission to the Union it took title to the sovereign lands within the state. State v. Brace, 36 N.W.2d 330, 332 (N.D. 1949). “The starting legal principle is that a state acquires, as an incident of statehood, title to the beds of all navigable bodies of water within its boundaries ....” 101 Ranch v. United States, 714 F. Supp. 1005, 1013 (D.N.D. 1988), *aff'd*, 905 F.2d 180 (8th Cir. 1990). See also J.P. Furlong Enterprises, Inc. v. Sun Exploration and Production Co., 423 N.W.2d 130, 132 (N.D. 1988). The State’s title is “absolute,” and has been confirmed by the Submerged Lands Act. 43 U.S.C. §1311(a). See Oregon ex rel. State Land Bd. v. Corvallis Sand and Gravel Co., 429 U.S. 363, 372, 374 (1977). Therefore, North Dakota has absolute title to the beds of navigable waterways.

[¶8] Courts have determined that “Devils Lake is navigable.” See In re Matter of the Ownership of the Bed of Devils Lake, 423 N.W.2d 141 (N.D. 1988); Rutten v. State, 93 N.W.2d 796 (N.D. 1958); Devils Lake Sioux Tribe v. State of North Dakota, 917 F.2d 1049 (8th Cir. 1990); National Wildlife Federation v. Alexander, 613 F.2d 1054 (D.C. Cir. 1979). And although North Dakota took title to the bed of Devils Lake at statehood, as part of the Garrison Diversion water project in 1971, the State conveyed to the United States by quitclaim deed all land “lying below the meander line in the Devils Lake-Stump Lake chain of lakes.” 101 Ranch v. United States, 905

F.2d 180, 184 (8th Cir. 1990). “The 1971 deed expressly conveyed the lakebed by reference to pools in the lake.” Id. at 184.

[¶9] The Lake’s boundary is generally determined by reference to the ordinary low water mark, the ordinary high-water mark, and the area between those two marks which is referred to as the “shorezone.” The State owns absolute title to the bed of navigable bodies of water up to the low watermark. State ex rel. Sprynczynatyk v. Mills, 523 N.W.2d 537, 540 (N.D. 1994) (citing Hogue v. Bourgois, 71 N.W.2d 47, 52 (1955)). The adjacent or upland owner owns title to the ordinary high-water mark. Both the State and the upland owner have correlative rights between the ordinary high-water mark and the ordinary low water mark known as the shorezone. Sprynczynatyk, at 544-45.

[¶10] The Fifth Amendment guarantees that private property shall not “be taken for public use, without just compensation.” U.S. Const. Amend. V. “The takings clause of the Fifth Amendment is made applicable to the states through the Fourteenth Amendment.” Wild Rice River Estates, Inc. v. City of Fargo, 2005 ND 193, ¶ 12, 705 N.W.2d 850. “[P]rivate property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court for the owner.” Article I, § 16, of the North Dakota Constitution. “Whether there has been a taking of private property for public use is a question of law.” Wilkinson v. Bd. of Univ. & Sch. Lands, 2017 ND 231, ¶ 22, 903 N.W.2d 51.

[¶11] There are two categories of regulatory action considered per se takings: physical takings and total regulatory takings. Lingle v. Chevron U.S.A. Inc., 544 U.S. 528, 538, 125 S. Ct. 2074, 161 L. Ed. 2d 876 (2005). A physical taking is where the government “requires an owner to suffer a permanent physical invasion of her property.” Lingle, at 538. “[T]otal regulatory takings” occur when regulations “completely deprive an owner of ‘all economically beneficial use’ of [their] property.” Lingle, at 538 (quoting Lucas v. S.C. Coastal Council, 505 U.S. 1003, 1019, 1026, 112 S. Ct. 2886, 120 L. Ed. 2d 798 (1992)). For total regulatory takings, the “complete elimination of a property's value is the determinative factor . . . because the total deprivation of beneficial use is, from the landowner's point of view, the equivalent of a physical appropriation.” Id. Beyond these two categories, takings challenges are governed by the standards set out in Penn Central Transportation Co. v. New York City, 438 U.S. 104, 98 S. Ct. 2646, 57 L. Ed. 2d 631 (1978). Challenges regarding constitutional takings require situation-specific factual inquiries. Wild Rice River, at ¶ 13.

[¶12] Where the government's actions have already worked a taking, “no subsequent action by the government can relieve it of the duty to provide compensation for the period during which the taking was effective.” Ark. Game & Fish Comm'n v. United States, 568 U.S. 23, 33, 133 S. Ct. 511, 184 L. Ed. 2d 417 (2012) (quoting First English Evangelical Lutheran Church of Glendale v. County of Los Angeles, 482 U.S. 304, 321, 107 S. Ct. 2378, 96 L. Ed. 2d 250 (1987)); see also Knick v. Township of Scott, 139 S. Ct. 2162, 2171-72, 204 L. Ed. 2d 558 (2019) (noting that government's

post-takings actions cannot nullify property owner's Fifth Amendment right). The government's assertion of title and further governmental action can also amount to a taking. See Yuba Goldfields, Inc. v. United States, 723 F.2d 884, 888-89 (Fed. Cir. 1983); Central Pines Land Co. v. United States, 107 Fed. Cl. 310, 325, 327-28 (Fed. Cl. 2010); Pettro v. United States, 47 Fed. Cl. 136, 147-49 (Fed. Cl. 2000). Additionally, the North Dakota Legislative Assembly passed chapter 61-33.1 of the North Dakota Century Code, effective April 21, 2017, to provide a framework for takings challenges.

[¶13] The Fifth Amendment does not prevent the government from taking private property; rather, the government cannot take property without payment of just compensation. The court in Central Pines explained:

The Fifth Amendment specifies that private property shall not be taken by the government without "just compensation." U.S. Const. amend. V. Thus, when the government is found to have taken property, just compensation must be paid as damages. In the context of a temporary taking, the proper measure of just compensation is generally recognized to be the rental value of the property (or "fair rental value") over the period of time for which it was taken.

Additionally, in 1949 the North Dakota Supreme Court opined:

The rights of the grantees under the patents issued by the United States government were fixed and vested as of the dates of those patents. The riparian rights that the grantees thus acquired were valuable property rights. The [S]tate [of North Dakota] cannot constitutionally divest the owners thereof and transfer the property to itself without the payment of due compensation under the exercise of the powers of eminent domain.

...

We are here dealing with titles vested by patents from the United States. Such titles cannot be affected by the declaration of navigability contained in [North Dakota's statutes]. The legislature may not adopt a retroactive definition of navigability which would destroy a title already

vested under a federal grant, or transfer to the state a property right in a body of water or the bed thereof that had been previously acquired by a private owner. A legislative declaration that all meandered lakes are navigable will not make them so if they are not navigable in fact, as against the pre-existing rights of riparian owners, unless compensation is made to such owners for the property thus injured or taken by the state.

Ozark-Mahoning Co. v. State, 76 N.D. 464, 471, 37 N.W.2d 488, 492 (1949) (citing United States v. Champlin Refining Co., 10 Cir, 156 F2d 769; 56 Am Juris, Waters, Sec 185).

[¶14] On May 11, 2004, former Attorney General Wayne Stenehjem issued Opinion 2004-L-33 (hereafter "Letter Opinion") which discusses the boundaries of Devils Lake and vaguely addresses how they are determined. Although the opinion does provide some guidance on the ownership rights of adjacent riparian landowners, it also creates ambiguity regarding how and if upstream sub-basins, lakes, coulees, streams, and rivers become State property. The section of the Letter Opinion that I believe needs to be clarified is as follows:

[Y]ou ask whether lakes and coulees connected to Devils Lake that become inundated by the rising waters of Devils Lake become part of Devils Lake and subject to State ownership. As explained above, the extent of the State's ownership in the bed of Devils Lake fluctuates with the rise and fall of the lake. If geographic features *connected* to Devils Lake become *covered* by the rising lake, I see no reason why the principles discussed above would not apply and, therefore, the bed of the "connected" lakes and coulees could become owned by the State.

ND Att'y Gen. Op. No. 2004-L-33, p. 7 (May 11, 2004).

[¶15] In 2020, the North Dakota Supreme Court issued an opinion in Sorum v. State which reaffirmed that "[T]he watercourses clause operated to vest in the State ownership of watercourses which existed at statehood but does not operate to vest in

the State watercourses that become navigable after statehood[.]” 2020 ND 175, ¶ 48 (N.D. July 30, 2020) (cleaned up). The Court went on to explain:

[U]nder the common law of Dakota Territory when North Dakota was admitted to the United States, "the owner of land through which a nonnavigable [sic] stream flowed was possessed of the title to the bed of the stream." The watercourses clause was interpreted to apply only to those watercourses that were navigable at statehood because an interpretation that would divest the rights of riparian owners to the beds of watercourses that were not navigable in fact at statehood would violate the Fourteenth Amendment to the U.S. Constitution.

2020 ND 175, ¶ 49, 947 N.W.2d 382 (Citing Bigelow v. Draper, 6 N.D. 152, 69 N.W. 570 (1896)).

### DISCUSSION

[¶16] Under the Letter Opinion’s guidance, questions regarding the spread of navigable waters onto dry land are easily identifiable and answered. However, when rising waters “cover” or “connect” to existing non-navigable waters upstream such as the several sub-basins, lakes, and coulees north of the Lake the analysis becomes muddled. As written, the Letter Opinion provides that the only requirement to transform a body of water from non-navigable to navigable is physical connectivity but stops short of addressing whether the physical connectivity must be naturally occurring or whether artificial connectivity also creates State ownership.

[¶17] Understandably, the Letter Opinion creates an unsettling result for local political subdivisions and landowners. Using the guidance of the Letter Opinion the State could choose to dam any navigable water until it connects with non-navigable waters and inundates private property thereby seizing ownership, which I believe creates a potential violation of the Takings Clause of the Fifth Amendment to the

United States Constitution, as applied to the States by the Fourteenth Amendment to the United State Constitution, and Article I, § 16 of the North Dakota Constitution. Additionally, the Letter Opinion gives rise to questions of taxation on “permanently inundated” parcels and almost certainly implicates local political subdivisions.

[¶18] It appears that the Letter Opinion does not address the precedent established in Ozark-Mahoning Co. v. State; and due to the Supreme Court’s recent opinion in Sorum v. State, the issue of ownership of the land beneath previously non-navigable waters that have now become connected to Devils Lake must be addressed.

### **CONCLUSION**

[¶19] If the two bodies of water become merged and therefore “navigable” what implications does that have on the title of landowners? Furthermore, because the State manages the Devils Lake Basin, sets the Lake’s levels, and determines when pumps are activated, does that rise to the level of a constitutional taking created by the artificial merger of the waterways? I believe that landowners that hold patent parcels are exempt from claims of State ownership based on the virtue of their title; however, if their property has been rendered useless or without clear title, then analysis under the Takings Clauses should apply. If patent parcels are not exempt, by what lawful authority is the State exercising its claim to the inundated patent parcels, and by extension are there exceptions to the Sovereign Land Act that preclude state ownership of patent land through inundation?

[¶20] Thank you for your time and consideration of this opinion request. If you need further information or clarification, please contact me at the information listed above.

Respectfully Yours,

Beau M. Cummings  
Ramsey County State's Attorney



I respectfully request that you consider sponsoring the following amendment between lines 15 and 16;

**“WHEREAS**, a study addressing the confusion and conflicts caused by the declaration of navigability and titles vested by patents from the United States will provide valuable information to the Legislative Assembly concerning the determination of lawful ownership and tax treatment;”.

# 2025 HOUSE STANDING COMMITTEE MINUTES

## **Agriculture Committee** Room JW327C, State Capitol

HCR 3018  
2/20/2025

A concurrent resolution directing the Legislative Management to consider studying water and wetlands regulations and the taxation of inundated lands in the state.

9:37 a.m. Vice Chairwoman Hauck opened the meeting.

Members Present: Chairman Beltz, Vice Chairman Hauck, Representatives Anderson, Dobervich, Henderson, Holle, Hoverson, Kiefert, Nehring, Olson, Rios, Schreiber-Beck, Tveit, Vollmer

9:37 a.m. Representative Mike Beltz, District 20, Hillsboro, ND, introduced and testified.

### **Discussion Topics:**

- Study consideration
- Committee action

9:38 a.m. Representative Henderson moved to Reconsider.

9:39 a.m. Representative Nehring seconded the motion.

Votes vote.

Motion passed.

9:40 a.m. Representative Hoverson moved to Place on Consent Calendar.

9:41 a.m. Representative Olson seconded the motion.

Voice vote.

Motion passed.

9:43 a.m. Representative Hauck moved Do Pass and Place on Consent Calendar.

9:43 a.m. Representative Hoverson seconded the motion.

<b>Representatives</b>	<b>Vote</b>
Representative Mike Beltz	Y
Representative Dori Hauck	Y
Representative Karen A. Anderson	Y
Representative Gretchen Dobervich	Y
Representative Donna Henderson	Y
Representative Dawson Holle	Y

Representative Jeff Hoverson	Y
Representative Dwight Kiefert	Y
Representative Dennis Nehring	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	Y
Representative Daniel R. Vollmer	Y

Motion passed 14-0-0.

9:44 a.m. Representative Olson will carry the bill.

9:44 a.m. Chairman Beltz closed the meeting.

*Diane Lillis, Committee Clerk*

**REPORT OF STANDING COMMITTEE  
ENGROSSED HCR 3018 ([25.3080.02000](#))**

**Agriculture Committee (Rep. Beltz, Chairman)** recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (14 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). Engrossed HCR 3018 was placed on the Tenth order on the calendar.

**2025 SENATE AGRICULTURE AND VETERANS AFFAIRS**

**HCR 3018**

# 2025 SENATE STANDING COMMITTEE MINUTES

## Agriculture and Veterans Affairs Committee

Fort Union Room, State Capitol

HCR 3018

3/21/2025

A concurrent resolution directing the Legislative Management to consider studying water and wetlands regulations and the taxation of inundated lands in the state.

9:45 a.m. Chairman Luick opened the hearing.

Members present: Chairman Luick, Vice-Chair Myrdal, Senator Weston, Senator Weber, Senator Lemm

Members absent: Senator Marcellais

### **Discussion Topics:**

- Economic impact on ND
- Devils Lake history and impact
- Land access, utilization, and value
- Regulatory authority and tax concerns and inconsistencies
- Definition of navigable water and sovereign lands
- Definition of submergence and relicted land
- Compensation of submerged lands

9:46 a.m. Representative Mike Beltz, District 20, testified in favor and introduced the bill.

9:47 a.m. Representative Kathy Frelich, District 15, testified in favor.

9:51 a.m. Lance Gaebe, ND Farmers Union, testified in favor.

9:52 a.m. Lesley Icenogle, ND Corn Growers Association, testified in favor and submitted testimony #43355.

9:53 a.m. Parrell Grossman, Legislative Director, ND Soybean Growers Association, testified in favor.

9:54 a.m. Pete Hanebutt, Director of Public Policy, ND Farm Bureau, testified in favor.

9:56 a.m. Julie Ellingson, Executive Vice President, ND Stockmen's Association, testified in favor.

9:57 a.m. Aaron Carranza, Regulatory Division Director, Department of Water Resources, testified in neutral and submitted testimony #43389.

### **Additional written testimony:**

Dan Wogsland, ND Grain Growers Association, submitted testimony #43203 in favor.

Senate Agriculture and Veterans Affairs

Committee HCR 3018

3/21/25

Page 2

10:12 a.m. Chairman Luick closed the hearing.

*Audrey Oswald, Committee Clerk*



**North Dakota Grain Growers Association  
Testimony in Support of HB 3018  
Senate Agriculture and Veterans Affairs Committee  
March 21, 2025**

Chairman Luick, Members of the Senate Agriculture and Veterans Affairs Committee, for the record my name is Dan Wogsland representing the North Dakota Grain Growers Association (NDGGA). NDGGA appears before you today in support of HCR 3018. This resolution calls for a much-needed study on water and wetlands regulations in North Dakota, focusing on the complex issues surrounding jurisdictional overlaps and the taxation of inundated lands.

As we all know, our state's water resources are vital to our economy, our environment, and our way of life. But the current regulatory landscape is often confusing, creating uncertainty for landowners, businesses, and government agencies alike. This resolution recognizes the urgent need for clarity and proposes a comprehensive study to shed light on these issues.

Here's why this study is so important:

- **Clarity and Consistency:** The study will provide valuable insights into the overlapping jurisdictions of federal, state, and local agencies when it comes to water and wetlands management. This will help us identify potential conflicts and inconsistencies, paving the way for a more streamlined and efficient regulatory framework.
- **Fairness and Equity:** The current system of taxing inundated lands is often inconsistent and unfair. This study will allow us to examine different approaches and recommend solutions that ensure a more equitable and transparent system for property owners.
- **Informed Decision Making:** The study will provide the Legislative Assembly with essential information to develop well-informed and effective policies for the protection and management of our precious water resources.

NDGGA believes this study will be a valuable investment in our future. It will give us the tools we need to create a more efficient, equitable, and sustainable system for managing our water and wetlands resources. Therefore, Chairman Luick, Members of the Committee, NDGGA would respectfully request a Do Pass recommendation on HCR 3018 and would urge the full Senate to concur.





**In Favor of HCR 3018**  
**Senate Agriculture and Veterans Affairs**  
**March 21, 2025**

Chairman Luick and Committee members:

For the record, my name is Lesley Icenogle. Thank you for the opportunity to testify on behalf of the North Dakota Corn Growers Association (NDCGA) in favor of House Concurrent Resolution 3018.

NDCGA supports this effort to bring clarity and consistency to water and wetlands regulations in North Dakota. As evidenced by the number of related bills this session, this is a timely topic for study with significant implications for agriculture.

NDCGA urges a Do Pass recommendation on HCR 3018. Thank you for your consideration.

TESTIMONY OF

**Aaron Carranza, Division Director, Regulatory Division**

Chairman Luick, and members of the Senate Agriculture and Veterans Affairs Committee, I am Aaron Carranza the Regulatory Division Director of the Department of Water Resources. I'm here today to provide neutral testimony of House Concurrent Resolution 3018.

As everyone here today is aware, Devils Lake has had a complex and colorful history, even before North Dakota became a state. The dramatic fall and rise of the lake's water levels over the last century and a half has had a profound effect on people and homes, farms and ranches, and cities and roads in the area. The fluctuating lake water levels have also raised several important questions relative to land ownership, title interests, and taxation.

When looking to address these questions and provide guidance and surety to those affected, it is important to first identify what we do know relative to the questions at hand so that we might clearly identify what remains to be answered and form an efficient strategy moving forward.

I would like to first provide some background, key definitions, and key answers from various court decisions relative to the issues and questions before us.

### **Background**

Each of the thirteen original colonies, at the time of independence, gained ownership of the land beneath navigable waters. "[T]he people of each state became themselves sovereign; and in that character hold the absolute right to all their navigable waters and soils under them, for their own common use." *Martin v. Wadell's Lessee*, 41 U.S. 367, 410 (1842). In 1845, the United States Supreme Court concluded that states entering the union after 1789 did so on an "equal footing" with the original States and so have similar ownership over these "sovereign lands."

Congress confirmed States' equal footing rights to submerged lands beneath inland navigable waters when it enacted the Submerged Lands Act of 1953, 67 Stat. 29 (1953), 43 U.S.C. 1301 et seq. The Act "confirmed" and "established" States' title to and interest in "lands beneath navigable waters within the boundaries of the respective States."

As such, North Dakota acquired title to the bed and banks of Devils Lake and other navigable lakes and streams up to the ordinary high water mark incidental to statehood in 1889 under the Equal Footing Doctrine.

## Key Definitions

Navigable waters "means waters that were in fact navigable at the time of statehood, and that are used, were used, or were susceptible of being used in their ordinary condition as highways for commerce over which trade and travel were or may have been conducted in the customary modes of trade on water." North Dakota Century Code (N.D.C.C.) § 61-33-01(3)

Ordinary high water mark "means that line below which the presence and action of the water upon the land is continuous enough so as to prevent the growth of terrestrial vegetation, destroy its value for agricultural purposes by preventing the growth of what may be termed an ordinary agricultural crop, including hay, or restrict its growth to predominantly aquatic species." N.D.C.C. § 61-33-01(4)

Sovereign lands "means those areas, including beds and islands, lying within the ordinary high watermark of navigable lakes and streams." N.D.C.C. § 61-33-01(5)

Relicted land is land that was covered with water, but which is uncovered by the imperceptible recession of the water.<sup>1</sup>

Submergence is the converse of reliction and involves the imperceptible rise in water level so that land formerly free of water becomes submerged.<sup>1</sup>

## Legal Insights

The North Dakota Supreme court has rendered several decisions relevant to the effects of fluctuating nature of Devils Lake. The following are citations from those court decisions.

"The district court has further ruled that, at the time of North Dakota's statehood, the ordinary high water mark was the meander line. Consequently, the State acquired title to the bed of Devils Lake up to the meander line."<sup>1</sup>

"The land acquired by the plaintiffs or their predecessors in interest through United States or State patent was adjacent to the ordinary high water mark of West Bay at the time of the original survey. Therefore, these lands are riparian in character."<sup>1</sup>

"Title to riparian land carries unique benefits and burdens. It carries the benefit of reliction. Conversely, riparian land is burdened by submergence."<sup>1</sup>

---

<sup>1</sup> 101 Ranch v. United States, 714 F. Supp. 1005 (D.N.D. 1988)

"When relicted lands are created, the upland owner takes title to those lands and is not accountable for the gain."<sup>1</sup>

"When this happens (submergence), title to submerged lands reverts to the State and the loss is uncompensated."<sup>1</sup>

"As noted earlier, the water line, no matter how it shifts, remains the property boundary around Devils Lake."<sup>1</sup>

"Thus, the ordinary high water mark is not a fixed line, but is instead ambulatory."<sup>2</sup>

"The extent of the State's and the adjacent landowner's title fluctuates with the water line as it exists from time to time."<sup>3</sup>

The North Dakota Attorney General has provided guidance on the questions of "Who takes title to relicted land?" and "Would a pre-submergence nonriparian owner become the riparian owner with rights to all relicted lands as the lake recedes?" in the absence of court direction.

Attorney General Opinion 2004-L-33 (enclosed to my testimony online) states (emphasis added):

"The North Dakota Supreme Court in Perry v. Erling, 132 N.W.2d 889 (N.D. 1965), has indirectly examined a variation of the issue you present. In Perry, land which was originally surveyed as riparian was submerged by the encroaching Missouri River; the encroachment caused land, originally surveyed as nonriparian, to become riparian. The Perry Court concluded that when the river shifted back, causing the land originally surveyed as riparian to reemerge, title to the reemerging land *rested with the owner of the original riparian land and not with the owner of the original nonriparian land.*"

"Although the North Dakota Supreme Court has not directly addressed this issue relative to Devils Lake, *it is possible that the Court would expand upon the precedent set in Perry and 101 Ranch, and allow title to formally inundated riparian land to revert to the person who owned it prior to inundation.*"

## Proposed Study Language

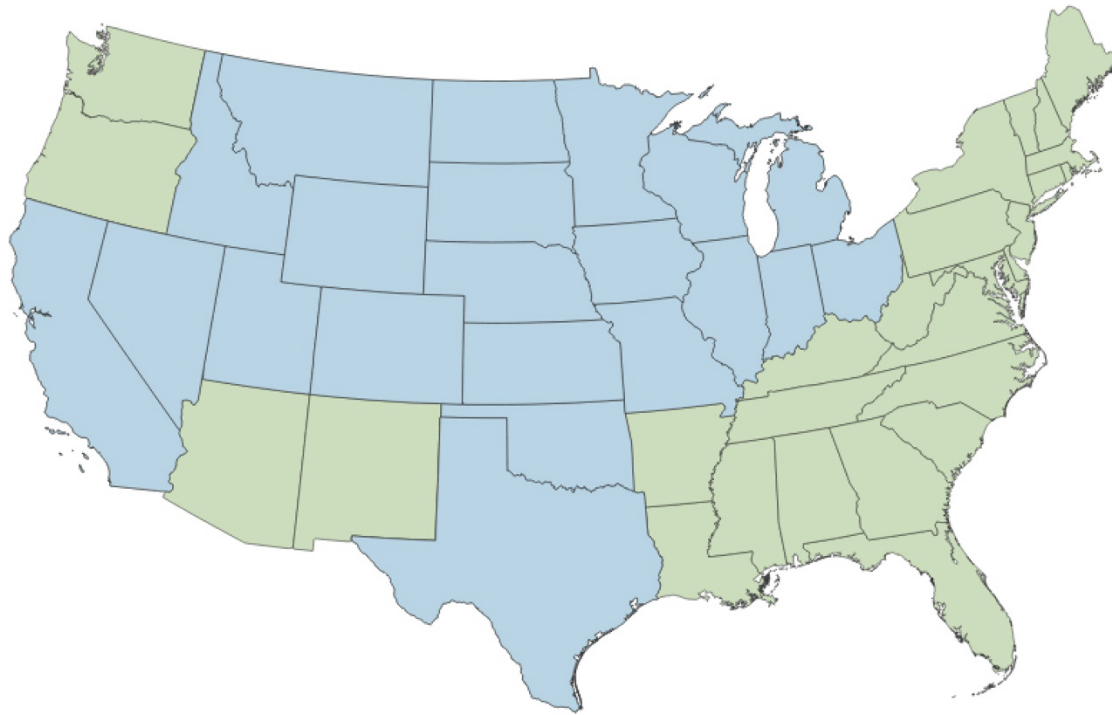
Where the "whereas" justification are specific to navigable waters and the online testimony are specific to lands submerged by Devils Lake, a state navigable water, the study direction is much less specific.

---

<sup>2</sup> State ex rel. Sprynczynatyk v. Mills, 1999 ND 75, 592 N.W.2d 591

<sup>3</sup> Matter of Ownership of Bed of Devils Lake, 423 N.W.2d 141 (1988)

For context, as was presented to this committee under a different bill earlier in the session, during this past interim, the Department of Water Resources sought to close an information gap in understanding water management in geographically similar states to North Dakota and thus commissioned a study to research current surface water management practices in the 21 states shown below in blue.



The Department's study concluded at the end of December 2024. A summary report with recommendations, along with an appendix of the state-specific regulations, were provided and are available here: [https://www.dwr.nd.gov/info\\_edu/reports\\_and\\_publications/](https://www.dwr.nd.gov/info_edu/reports_and_publications/)

The report generated a gargantuan amount of information, leading to recommendations (as noted below) that suggested further research and investigation.

- 1. Implement Ongoing Tracking Across the Key States:** Continue to track developments in watershed management across the Key States in order to facilitate future discussions or identify new trends.
- 2. Follow up with Key States' State Agencies Directly:** NDDWR may choose to follow up directly with the relevant state agencies to gather more precise and up-to-date information on specific areas of interest. The following states, in particular, have been identified for follow-up: Utah, Nebraska, Minnesota, Iowa, and Wyoming.
- 3. Support Cross-Political Boundary Water Management:** NDDWR may consider working with the legislature and water stakeholders to further study Joint WRDs and evaluate the potential for them to serve in an advisory capacity over the political-boundary based WRDs or to assist in broader

water management planning. States identified with cross-jurisdictional regulations are Montana, Colorado, Idaho, Utah, Nevada, and Nebraska.

4. **Incentivize Research into Surface Water Data Collection and Mapping Efforts:** North Dakota may choose to provide grant funding to Joint WRDs or other watershed-based political subdivisions in order for them to research and model the unique hydrology of their watershed.
5. **Further Research Appeal and Dispute Resolution Pathways:** NDDWR may consider working with the North Dakota's legislature, and water stakeholders to consider doing a further review of North Dakota's administrative remedies to identify efficiencies and assure effective management for surface water. States identified with unique administrative remedies are Montana, Colorado, Idaho, Utah, Nevada, and Nebraska.

The point of including this here is that the above effort to aggregate data from 21 states cost the Department just under \$100,000 and many hours of staff time to get to the final product. The current bill appears to be even more broad in scope than the Department's study. The Department supports using its recently completed report as a starting point on whatever final study may be chosen via HCR 3018.

The Department recognizes that there are specific concerns and questions that seek answers and suggests that refining the study direction language to be much more specific to these concerns and questions may help lead to an actionable result from the study effort.

To aid in developing study language that efficiently answers outstanding questions that remain unanswered, the Department neutrally suggests the following language to replace lines 22 through 23 on page 1 and lines 1 through 7 on page 2 of HCR 3018 with:

That Legislative Management shall consider studying taxation, title interests, and conveyance of submerged lands as a result of the changing water levels of Devils Lake; and

**BE IT FUTHER RESOLVED**, the study must include an examination of what, if any, title interests are retained by the record title holder of submerged lands; what, if any, local taxation of submerged lands is allowed by existing state law; what, if any, rights to convey interests are retained by the record title holder of submerged lands; and

Thank you for the opportunity to testify, and I'm happy to answer any questions.

**LETTER OPINION  
2004-L-33**

May 11, 2004

Mr. Michael Connor  
Manager  
Devils Lake Basin Joint Water Resource Board  
524 4th Avenue #27  
Devils Lake, ND 58301

Dear Mr. Connor:

Thank you for your letter asking questions related to Devils Lake.<sup>1</sup> For the reasons discussed below, it is my opinion that as Devils Lake rises or recedes, the adjacent landowner will take title down to the ordinary high water mark, the State will take title to lands up to the ordinary low water mark, and the adjacent landowner and the State will have correlative rights to the area in between the two marks known as the shorezone; any financial assistance received by landowners related to land inundated by Devils Lake will likely not adversely affect the State's property interest in the bed of Devils Lake; debris removal on land exposed by the receding lake will be governed by N.D.C.C. § 61-03-23.1 if applicable, and, if not applicable, will be the responsibility of the landowner for land above the ordinary high water mark; the courts have historically, without much explanation, applied laws determining the boundaries of navigable bodies of water to both rivers and lakes; and if Devils Lake continues to rise, State ownership may follow rising waters to inundated lands.

**ANALYSIS**

As you know, Devils Lake is a large freshwater lake in northeast North Dakota whose elevation has fluctuated widely. During Devils Lake's most recent rise beginning in the 1940's, the lake has risen and inundated many acres of developed land surrounding Devils Lake.

---

<sup>1</sup> You also ask questions relating to the operation of the Devils Lake outlet. This office will not issue an opinion on matters in which it is currently engaged in litigation. The State has, in fact, been sued over the outlet. Two groups have appealed the North Dakota Pollutant Discharge Elimination System Permit issued for the outlet by the North Dakota Department of Health to the State Water Commission. Consequently, this office respectfully declines to answer questions relating to the outlet.

Today, Devils Lake's elevation is over 1,447 feet mean sea level (msl). You ask if Devils Lake rises to 1,450' msl, whether the additional acreage inundated becomes State property. The essence of your question is whether the State's title to the bed of Devils Lake can expand. Conversely, you ask how ownership will be determined if the lake recedes. The answers to your questions require an analysis of why the State has absolute title to beds of navigable waters and principles of water and property law.

Upon achieving independence from Great Britain, each American colony became sovereign. As such, they held "the absolute right to all their navigable waters and the soils under them . . . subject only to the rights since surrendered by the constitution to the general government." Martin v. Waddell's Lessee, 41 U.S. 367, 410 (1842). Since the beds of navigable waters were not surrendered by the U.S. Constitution to the federal government, they were retained by the states. Mumford v. Wardwell, 73 U.S. 423, 436 (1867). New states admitted to the Union were entitled to the same rights as those held by the original states. Id.; Pollard v. Hagan, 44 U.S. 212, 224, 228-29 (1845). This concept is the equal footing doctrine. See Utah Division of State Lands v. United States, 482 U.S. 193, 195-196 (1987). Indeed, North Dakota's Enabling Act states that North Dakota shall be "admitted . . . into the union . . . on an equal footing with the original States . . . ." 25 Stat. 676, 679 (1889) reprinted in 13 N.D.C.C. p. 63 (1981).

Under the equal footing doctrine, upon North Dakota's admission to the Union it took title to the sovereign lands within the state. State v. Brace, 36 N.W.2d 330, 332 (N.D. 1949). "The starting legal principle is that a state acquires, as an incident of statehood, title to the beds of all navigable bodies of water within its boundaries . . . ." 101 Ranch v. United States, 714 F. Supp. 1005, 1013 (D.N.D. 1988), aff'd, 905 F.2d 180 (8th Cir. 1990). See also J.P. Furlong Enterprises, Inc. v. Sun Exploration and Production Co., 423 N.W.2d 130, 132 (N.D. 1988) (same). This title is "absolute," Oregon ex rel. State Land Bd. v. Corvallis Sand and Gravel Co., 429 U.S. 363, 372, 374 (1977), and has been confirmed by the Submerged Lands Act. 43 U.S.C. § 1311(a). Thus, the State has absolute title to the beds of navigable waterways.<sup>2</sup>

Devils Lake is navigable. See In re Matter of the Ownership of the Bed of Devils Lake, 423 N.W.2d 141 (N.D. 1988); Rutten v. State, 93 N.W.2d 796 (N.D. 1958); Devils Lake Sioux Tribe v. State of North Dakota, 917 F.2d 1049 (8th Cir. 1990); 101 Ranch, 714 F.

---

<sup>2</sup> Although North Dakota took title to the bed of Devils Lake at statehood, in 1971, as part of the Garrison Diversion water project, the State conveyed to the United States by quitclaim deed all land "lying below the meander line in the Devils Lake-Stump Lake chain of lakes." 101 Ranch v. United States, 905 F.2d 180, 184 (8th Cir. 1990). "The 1971 deed expressly conveyed the lakebed by reference to pools in the lake." Id. at 184 n.9. The fact that the State conveyed certain lands to the United States should not affect the principles of law governing boundary determinations.



Supp. 1005; 101 Ranch, 905 F.2d 180; National Wildlife Federation v. Alexander, 613 F.2d 1054 (D.C. Cir. 1979). The next logical question is to what extent does the State's and adjacent landowners' ownership of a navigable body of water change as the lake rises and falls?

The boundary of a tract of land abutting a navigable body of water is ordinarily formed by a water line. In re Ownership of the Bed of Devils Lake, 423 N.W.2d at 143.<sup>3</sup> The boundary is generally discussed by reference to the ordinary low water mark, the ordinary high water mark, and the area between those two marks which is referred to as the "shorezone." The State owns absolute title to the bed of navigable bodies of water up to the low watermark. State ex rel. Sprynczynatyk v. Mills, 523 N.W.2d 537, 540 (N.D. 1994) (citing Hogue v. Bourgois, 71 N.W.2d 47, 52 (1955)). The adjacent or upland owner owns title to the ordinary high water mark. Both the State and the upland owner have correlative rights between the ordinary high water mark and the ordinary low water mark known as the shorezone. State ex rel. Sprynczynatyk, 523 N.W.2d at 544-45.

Section 61-15-01, N.D.C.C., defines the ordinary high water mark as "that line reached by water when lake or stream is ordinarily full and the water ordinarily high." In a case involving the ordinary high water mark of Devils Lake, the Court explained:

"'High Water Mark' means what its language imports -- a water mark. It is co-ordinate with the limit of the bed of the water; and that only is to be considered the bed which the water occupies sufficiently long and continuously to wrest it from vegetation, and destroy its value for agricultural purposes. . . . In some places, however, where the banks are low and flat, the water does not impress on the soil any well-defined line of demarcation between the bed and the banks.

In such cases the effect of the water upon vegetation must be the principal test in determining the location of high-water mark as a line between the riparian<sup>4</sup> owner and the public. It is the point up to which the presence and action of the water is so continuous as to destroy the value of the land for agricultural purposes by preventing the growth of vegetation, constituting what may be termed an ordinary agricultural crop."

In re Ownership of the Bed of Devils Lake, 423 N.W.2d at 144-5 (quoting Rutten v. State, 93 N.W.2d 796, 799 (N.D. 1958)). The doctrines of reliction and submergence

---

<sup>3</sup> Because the water level of the lake may rise or fall before the ordinary high water mark is established, at any given time, the water level could be below or above the ordinary high water mark.

<sup>4</sup> Riparian means 'belonging or relating to the bank of a river or stream; of or on the bank.' North Shore, Inc. v. Wakefield, 530 N.W.2d 297, 298 at n.1 (N.D. 1995).

define the boundary between public and private interests. 101 Ranch, 905 F.2d at 183. Relicted land is that which was covered with water, but which was uncovered by the imperceptible recession of the water. 101 Ranch, 714 F. Supp. at 1014 (citing Bear v. United States, 611 F. Supp. 589, 593 n.2 (D. Neb. 1985), aff'd, 810 F.2d 153 (8th Cir. 1987)). When relict lands are created, the upland owner takes title to those lands; the doctrine of reliction causes the title to riparian land to be ambulatory. 101 Ranch, 714 F. Supp. at 1014 (citing Oregon ex rel. State Land Board v. Corvallis Sand & Gravel Co., 429 U.S. at 386, and California ex rel. State Lands Com'n v. United States, 805 F.2d 857, 864 (9th Cir. 1986)).

“Submergence is the converse of reliction and involves the imperceptible rise in water level so that land formerly free of water becomes submerged.” 101 Ranch, 714 F. Supp. at 1014 (citing Municipal Liquidators, Inc. v. Tench, 153 So.2d 728 (Fla. 1963)). When this happens, title to submerged lands reverts to the State and the loss is uncompensated. 101 Ranch, 714 F. Supp. at 1014. Thus, the ordinary high water mark is not a fixed line, but is instead ambulatory. In re Ownership of the Bed of Devils Lake, 423 N.W.2d at 144-5 (quoting Rutten v. State, 93 N.W.2d 796, 799 (N.D. 1958)). The extent of the State’s and the adjacent landowner’s title fluctuates with the water line as it exists from time to time. State ex rel. Sprynczynatyk v. Mills, 592 N.W.2d at 592 (citing In re Ownership of the Bed of Devils Lake, 423 N.W.2d at 143-144).

Typically, ordinary high water mark determinations only arise due to court actions. There have been at least two North Dakota Supreme Court cases and one federal district court case discussing ordinary high water mark determinations for Devils Lake. In Rutten v. State, the plaintiff argued and the district court agreed that the ordinary high water mark was 1,419 feet msl. Rutten, 93 N.W.2d at 798. The North Dakota Supreme Court, however, analyzed the historical rises and falls of the lake and concluded that the evidence was insufficient to sustain the plaintiff’s contention that the waters of Devils Lake had permanently receded and that the ordinary high water line of the lake was 1,419 feet msl. Id. at 798-99. The Court explained that “the evidence before the court fails to warrant the conclusion that there has been a permanent reliction to the present level of the lake, or that the waters in the lake will never again reach some higher level.” Id. at 799. In 1988, the North Dakota Supreme Court determined that the ordinary high water mark was 1,426 feet msl. In re Ownership of the Bed of Devils Lake, 423 N.W.2d at 143. The same year, however, the North Dakota federal district court determined the ordinary high water mark to be 1,427 feet msl. 101 Ranch, 714 F. Supp. at 1008 (D.N.D. 1988). I am unaware of any additional court determinations relative to Devils Lake’s ordinary high water mark. These cases illustrate the ambulatory nature of title to land adjacent to Devils Lake.

In some cases, land that was not riparian to the lake may now be inundated by Devils Lake. In a conversation you had with a member of my staff, you asked whether the nonriparian owner would become the owner of the riparian land if Devils Lake recedes below that riparian land. The North Dakota Supreme Court in Perry v. Erling, 132

N.W.2d 889 (N.D. 1965), has indirectly examined a variation of the issue you present. In Perry, land which was originally surveyed as riparian was submerged by the encroaching Missouri River; the encroachment caused land, originally surveyed as nonriparian, to become riparian. Id. at 897. The Perry Court concluded that when the river shifted back, causing the land originally surveyed as riparian to reemerge, title to the reemerging land rested with the owner of the original riparian land and not with the owner of the original nonriparian land. Id.

Although the North Dakota Supreme Court has not directly addressed this issue relative to Devils Lake, it is possible that the Court would expand upon the precedent set in Perry and 101 Ranch, and allow title to formerly inundated riparian land to revert to the person who owned it prior to inundation.

You ask if the State's ownership will be affected if landowners receive financial assistance for inundated land without State involvement. Generally, the State's title to land is unaffected by an exchange of money between landowners and a third party. See 101 Ranch, 714 F. Supp. 1005. It is difficult to imagine a situation in which an arrangement or transaction between a landowner and another person will adversely affect the State's property interest.

You ask who is responsible for debris removal from land currently inundated as the water recedes. For instance, debris such as dead tree groves (fallen and standing), abandoned machinery, and other objects that might be considered garbage may be left behind by receding waters on the newly exposed land.

In 1997, the North Dakota Legislature passed N.D.C.C. § 61-03-21.3, giving the State Engineer the authority to order the removal, modification, or destruction of dangers in, on the bed of, or adjacent to a navigable lake. The law provides in part:

If the state engineer finds that buildings, structures, boat docks, debris, or other manmade objects, except a fence or corral, situated in, on the bed of, or adjacent to a lake that has been determined to be navigable by a court are, or are imminently likely to be, a menace to life or property or public health or safety, the state engineer shall issue an order to the person responsible for the object. The order must specify the nature and extent of the conditions, the action necessary to alleviate, avert, or minimize the danger, and a date by which that action must be taken . . . . The person responsible is the person who owns or has control of the property on which the object is located, or if the property is inundated with water, the person who owned or had control of the property immediately before it became inundated by water.

Id.

In cases where N.D.C.C. § 61-03-21.3 does not apply, for instance, if the debris did not constitute a menace to life, property, or public health or safety, other principles would govern. As noted earlier, the water line, no matter how it shifts, remains the property boundary around Devils Lake. 101 Ranch, 802 F.2d at 184-185 (citing Oberly v. Carpenter, 274 N.W. 509, 513 (1937); Jefferis v. East Omaha Land Co., 134 U.S. 178, 196 (1890)). Thus, if the water level drops, the owner of previously inundated land would regain absolute ownership to land above the ordinary high water mark and be responsible for debris removal assuming, of course, that either state or local law required the removal. Between the ordinary high water mark and the low water mark there is a zone along the shoreline wherein the State and the landowner have correlative rights. In State ex rel. Sprynczynatyk v. Mills, 523 N.W.2d at 544, the North Dakota Supreme Court declined to specify the rights of riparian landowners and the State: "The shore zone presents a complex bundle of correlative, and sometimes conflicting, rights and claims which are better suited for determination as they arise. Any precise delineation of parties' rights in this situation would be advisory." The Court did, however, cite to a Minnesota Supreme Court decision wherein that court explained:

"While the title of a riparian owner in navigable or public waters extends to ordinary low-water mark, his title is not absolute except to ordinary high-water mark. As to the intervening space his title is limited or qualified by the right of the public to use the same for purpose of navigation or other public purpose. The state may use it for any such public purpose, and to that end may reclaim it during periods of low water, and protect it from any use, even by the riparian owner, that would interfere with its present or prospective public use, without compensation. Restricted only by that paramount public right the riparian owner enjoys proprietary privileges, among which is the right to use the land for private purposes."

Id. at 543-44 (quoting State v. Korrer, 148 N.W. 617 (Minn. 1914)). Thus, neither the State nor the riparian landowner have absolute title to the shorezone, although the riparian landowner can use his or her land as long as the landowner does not interfere with the public's use of the zone. Based upon the lack of direction from the North Dakota Supreme Court relative to the extent of correlative interests and the potential for numerous factual scenarios, I am unable to issue an opinion whether it is the State or private landowner who would be responsible for debris removal in the shorezone when N.D.C.C. § 61-03-21.3 is not applicable.

You ask how laws designed to resolve "river" disputes can be applied to lakes. Historically, when analyzing the boundaries of navigable bodies of water, North Dakota courts have not distinguished between rivers and lakes. In Roberts v. Taylor, 181 N.W. 622, 625 (N.D. 1921), the North Dakota Supreme Court explained that "in this state a lake is differentiated from a water course only in that it is simply an enlarged water course wherein the water may flow or a basin wherein the waters are quiescent." In In re Matter of Ownership of Bed of Devils Lake, 423 N.W.2d at 144, the Court explained

that the doctrines of accretion and reliction have often been applied by this court to lakes and rivers in this state. Id. (citing Hogue v. Bourgois, 71 N.W.2d at 52; Roberts v. Taylor, 181 N.W. at 622; Brignall v. Hannah, 157 N.W. 1042, 1045 (N.D. 1916)). In sum, the Court, without much explanation, has readily applied the principles of reliction, submergence, etc., to lakes just as those principles have been applied to rivers.

Finally, you ask whether lakes and coulees connected to Devils Lake that become inundated by the rising waters of Devils Lake become part of Devils Lake and subject to State ownership. As explained above, the extent of the State's ownership in the bed of Devils Lake fluctuates with the rise and fall of the lake. If geographic features connected to Devils Lake become covered by the rising lake, I see no reason why the principles discussed above would not apply and, therefore, the bed of the "connected" lakes and coulees could become owned by the State.

You also ask whether coulees and land under lakes "not previously connected to Devils Lake" that become inundated by the expansion of Devils Lake become part of Devils Lake and subject to State ownership. Your question implies that the lakes were not navigable at statehood and, therefore, their beds are not owned by the State. Again, the principles discussed above and the ambulatory nature of the State's ownership would seem equally applicable to this situation. But the situation is unique and we have not found a court decision that directly addresses this issue. Further, there is uncertainty in the meaning of "not previously connected to Devils Lake." Does it mean not connected in the past 10, 100, or 1,000 years? Consequently, although State title may follow rising Devils Lake waters to lands "not previously connected to Devils Lake," we are unprepared at this time to issue an opinion on the subject.

Sincerely,

Wayne Stenehjem  
Attorney General

mas

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts. See State ex rel. Johnson v. Baker, 21 N.W.2d 355 (N.D. 1946).

# 2025 SENATE STANDING COMMITTEE MINUTES

## Agriculture and Veterans Affairs Committee

Fort Union Room, State Capitol

HCR 3018

4/3/2025

A concurrent resolution directing the Legislative Management to consider studying water and wetlands regulations and the taxation of inundated lands in the state.

9:01 a.m. Chairman Luick called the meeting to order.

Members present: Chairman Luick, Vice-Chair Myrdal, Senator Marcellais, Senator Weston, Senator Weber, Senator Lemm

### Discussion Topics:

- Wetland study
- Water jurisdictions
- Taxing authority and property taxes
- Inundated farmland
- Committee action

9:03 a.m. Senator Weston moved to adopt Amendment LC# 25.3080.02002.

9:04 a.m. Senator Weber seconded the motion.

9:05 a.m. Voice vote on amendment - Motion Passed.

9:05 a.m. Senator Myrdal moved a Do Pass As Amended.

9:05 a.m. Senator Weston seconded the motion.

Senators	Vote
Senator Larry Luick	Y
Senator Janne Myrdal	Y
Senator Randy D. Lemm	Y
Senator Richard Marcellais	Y
Senator Mark F. Weber	Y
Senator Kent Weston	Y

Motion passed 6-0-0.

Senator Luick will carry the bill.

9:06 a.m. Chairman Luick closed the hearing.

*Audrey Oswald, Committee Clerk*

CO  
4/3/25  
1 of 2

**PROPOSED AMENDMENTS TO  
FIRST ENGROSSMENT**

**ENGROSSED HOUSE CONCURRENT  
RESOLUTION NO. 3018**

Introduced by

Representatives Beltz, Brandenburg, Frelich, Grueneich, Mitskog, Schreiber-Beck, Swiontek,  
Weisz

Senators Sorvaag, Thomas, Wanzek

1 A concurrent resolution directing the Legislative Management to consider studying water and  
2 wetlands regulations and the taxation of inundated lands in the state.

3 **WHEREAS**, the management of water and wetlands resources is a complex issue with  
4 significant implications for public health, economic development, and agriculture; and

5 **WHEREAS**, determining the high water mark of specific wetlands is imperative to protect  
6 both public and private property losses; and

7 **WHEREAS**, the jurisdiction over water and wetlands often is unclear and involves multiple  
8 levels of government, including federal, state, and local agencies; and

9 **WHEREAS**, overlapping jurisdictions can create confusion, delays, and inconsistencies in  
10 the regulation and management of water and wetlands; and

11 **WHEREAS**, boards of county commissioners are authorized to remove from the tax rolls all  
12 inundated lands, often resulting in inconsistent application; and

13 **WHEREAS**, seasonal wet areas and meltwater concentrations are considered jurisdictional  
14 wetlands by some authorities; and

15 **WHEREAS**, despite being a jurisdictional wetland, these areas are nuisance areas where  
16 crops can not grow for most of the year, and only become productive acres after the initial  
17 spring runoff; and

18 **WHEREAS**, seasonal wet areas can create concentrations of salts and other substances  
19 that permanently impair soil and soil productivity; and

20 **WHEREAS**, seasonal wet areas become dry in the summer and serve little value as a  
21 wildlife habitat; and



1       **WHEREAS**, a comprehensive study of the jurisdictional framework is necessary to identify  
2 potential conflicts, overlaps, and gaps in authority and tax treatment; and

3       **WHEREAS**, a study will provide valuable information to the Legislative Assembly in  
4 developing effective and efficient policies for the protection and management of water and  
5 wetlands resources; and

6       **WHEREAS**, addressing confusion and property disputes caused by the declaration of  
7 navigability and property titles deriving from patents issued by the United States will provide  
8 valuable information to the Legislative Assembly concerning the determination of lawful  
9 ownership and tax treatment;

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

12       That the Legislative Management shall consider studying water and wetlands regulations  
13 and the taxation of inundated lands in the state; and

14       **BE IT FURTHER RESOLVED**, that the study must include a review of the different methods  
15 to assess and document high water levels for wetlands; an examination of the regulation of  
16 water, wetlands, and inundated lands laws of other states; an inventory of all federal, state, and  
17 local laws, regulations, and policies relating to the jurisdiction of water and wetlands; an  
18 analysis of the environmental protection and public health jurisdictional framework, including an  
19 identification of potential conflicts, overlaps, and gaps in authority; and recommendations for  
20 improving the clarity, consistency, and efficiency of the jurisdictional framework in water  
21 management; and

22       **BE IT FURTHER RESOLVED**, that the study also must explore viable legal options to fill  
23 and drain nuisance areas, examine the impacts of seasonal wet areas on agriculture  
24 productivity and soil health, and identify the value of these areas to resident wildlife; and

25       **BE IT FURTHER RESOLVED**, that the Legislative Management report its findings and  
26 recommendations, together with any legislation required to implement the recommendations, to  
27 the Seventieth Legislative Assembly.



**REPORT OF STANDING COMMITTEE  
ENGROSSED HCR 3018**

**Agriculture and Veterans Affairs Committee (Sen. Luick, Chairman)** recommends **AMENDMENTS** ([25.3080.02002](#)) and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). Engrossed HCR 3018 was placed on the Sixth order on the calendar. This resolution does not affect workforce development.