

HOUSE CONCURRENT RESOLUTION NO. 3017

Introduced by

Representatives Brandenburg, Belter, Headland, Kempenich, Schmidt, Boe

Senators Schaible, Wanzek, Dotzenrod, O'Connell

1 A concurrent resolution urging the United States Fish and Wildlife Service and the United States
2 Department of Agriculture's Natural Resources Conservation Service to fairly administer water
3 management laws and regulations in a manner that allows landowners and tenants certainty
4 and cooperation in the management of these laws and regulations.

5 **WHEREAS**, North Dakota agriculture is the state's number one industry and economic
6 engine; and

7 **WHEREAS**, orderly water management is critical for agriculture's continued success in the
8 state; and

9 **WHEREAS**, orderly water management is vital to soil stewardship and soil health; and

10 **WHEREAS**, orderly water management will reduce the number of unproductive acres of
11 cropland, reducing prevent plant acres and decreasing the cost of the crop insurance program,
12 while enhancing crop production for the benefit of the state and the world's population; and

13 **WHEREAS**, in the area of proper water management, North Dakota farmers and ranchers
14 have been stymied by the regulatory burden caused by inconsistent and misinterpreted water
15 management laws and regulations; and

16 **WHEREAS**, federal agencies, including the United States Department of Agriculture's
17 Natural Resources Conservation Service and the United States Fish and Wildlife Service have
18 perpetuated an environment of overregulation and misinterpretation of water management laws
19 and regulations, instead of an environment of cooperation and assistance to North Dakota
20 farmers and ranchers; and

21 **WHEREAS**, the Natural Resources Conservation Service and the Fish and Wildlife Service
22 have made questionable "year specific" wetland conversion determinations without reasonable
23 review of the historic rainfall events and the erosion of the rainfall events that have affected this
24 state since 1992; and

1 **WHEREAS**, producers in this state have several hundred acres of cropland that have been
2 awaiting wetland determinations by the Natural Resources Conservation Service for many
3 years and have in good faith attempted to comply with the now rigorous implementation of an
4 age-old wetlands law; and

5 **WHEREAS**, the Natural Resources Conservation Service and the Fish and Wildlife Service
6 ~~have demonstrated no regard for~~need to consider the emotional and financial well-being of the
7 farmers, ranchers, landowners, and tenants being charged with purported wetland violations;
8 and

9 **WHEREAS**, the United States Department of Agriculture's Farm Service Agency's relief
10 authority, otherwise known as good-faith effort determinations, and reinstatement of benefits
11 should not be bound by limitations on the number of good-faith effort determinations provided;

12 and

13 **WHEREAS**, this state has the governmental agencies and resources to manage wetlands;

14 and

15 **WHEREAS**, the waterfowl population is stable and secure, and the United States Fish and
16 Wildlife Service should allow this state to manage wetlands within the state's boundaries;

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

19 That the Sixty-third Legislative Assembly urges the United States Fish and Wildlife Service
20 specifically define all of its easement boundaries and present these easement boundaries to
21 impacted landowners and tenants as soon as possible; and

22 That the United States Department of Agriculture's Natural Resources Conservation Service
23 more clearly define and more consistently implement their mission statement of "Helping People
24 Help the Land" and apply its rules and regulations accordingly regarding water management in
25 North Dakota; and

26 That the Natural Resources Conservation Service clearly define, for North Dakota farmers,
27 ranchers, landowners, and tenants, all of the options available for implementing orderly water
28 management strategies; and

29 That the Natural Resources Conservation Service and Fish and Wildlife Service provide
30 technical assistance to North Dakota farmers, ranchers, landowners, and tenants to achieve
31 orderly water management without fear of retribution or findings of other wetland violations; and

1 That processes undertaken in regards to orderly water management by the Natural
2 Resources Conservation Service and the Fish and Wildlife Service are completed in a timely
3 fashion; and

4 That in cases where the Natural Resources Conservation Service and the Fish and Wildlife
5 Service declares an area of land as converted wetlands and impose penalties, these agencies
6 work with farmers, ranchers, landowners, and tenants to correct the unintentional land
7 management practice; and

8 That in cases of disputes between farmers, ranchers, landowners, and tenants and the
9 Natural Resources Conservation Service and the Fish and Wildlife Service, farmers, ranchers,
10 landowners, and tenants are afforded time to employ corrective action before an official
11 determination of a violation is made; and

12 That in cases of dispute between the Natural Resources Conservation Service or the Fish
13 and Wildlife Service and farmers, ranchers, landowners, and tenants, the later are afforded
14 mediation through the United States Department of Agriculture and the North Dakota
15 Department of Agriculture and are provided the appeals processes in a timely fashion; and

16 That in the case of the United States Department of Agriculture's Farm Service Agency's
17 review of relief, also known as good-faith effort determinations, no limitation of the number of
18 good-faith effort determinations should be established for a farmer, rancher, landowner, or
19 tenant due to the Natural Resources Conservation Service's erratic and delayed implementation
20 of wetlands certifications and determinations; and

21 **BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this resolution
22 to the President of the United States, the Chairmen and ranking members of the United States
23 Senate and United States House of Representatives Committees on Agriculture, the United
24 States Secretary of Agriculture, the Chief of the United States Department of Agriculture's
25 Natural Resources Conservation Service, the Director of the United States Fish and Wildlife
26 Service, and to each member of the North Dakota Congressional Delegation.