

State of South Dakota

EIGHTY-NINTH SESSION LEGISLATIVE ASSEMBLY, 2014

831V0711

HOUSE CONCURRENT RESOLUTION NO. **1017**

Introduced by: Representatives May, Campbell, Gibson, Hawks, Hawley, Heinert, Hunhoff (Bernie), Killer, Nelson, Olson (Betty), Peterson, Schoenfish, Schrempp, Solum, and Tyler and Senators Frerichs, Bradford, and Lucas

1 A CONCURRENT RESOLUTION, Urging Congress, the White House Office of National Drug
2 Control Policy (ONDCP), the United States Department of Justice, and the United States
3 Drug Enforcement Administration (DEA) to recognize industrial hemp as a valuable
4 agricultural commodity.

5 WHEREAS, industrial hemp refers to the nondrug oilseed and fiber varieties of cannabis
6 which have less than three-tenths of one percent tetrahydrocannabinol (THC) and which are
7 cultivated exclusively for fiber, stalk, and seed, and are genetically distinct from drug varieties
8 of cannabis, also known as marijuana; and

9 WHEREAS, the flowering tops of industrial hemp cannot produce any drug effect when
10 smoked or ingested; and

11 WHEREAS, Congress never intended to prohibit the production of industrial hemp when
12 restricting the production, possession, and use of marijuana. The legislative history of the
13 Marijuana Tax Act where the current federal definition of marijuana first appeared shows that
14 industrial hemp farmers and manufacturers of industrial hemp products were assuaged by



1 Federal Bureau of Narcotic Commissioner Harry J. Anslinger who promised that the proposed
2 legislation bore no threat to them: "They are not only amply protected under this act, but they
3 can go ahead and raise hemp just as they have always done it"; and

4 WHEREAS, the United States Court of Appeals for the Ninth Circuit ruled in *Hemp*
5 *Industries v. Drug Enforcement Administration*, 357 F.3d 1012 (9th Cir. 2004), that the federal
6 Controlled Substances Act of 1970 (21 U.S.C. Sec. 812(b)) explicitly excludes nonpsychoactive
7 industrial hemp from the definition of marijuana, and the federal government declined to appeal
8 that decision; and

9 WHEREAS, the Controlled Substances Act of 1970 specifies the findings to which the
10 government must attest in order to classify a substance as a Schedule I drug and those findings
11 include that the substance has a high potential for abuse, has no accepted medical use, and has
12 a lack of accepted safety for use, none of which apply to industrial hemp; and

13 WHEREAS, Article 28, Section 2, of the Single Convention on Narcotic Drugs, 1961, as
14 amended by the 1972 Protocol, states that, "This Convention shall not apply to the cultivation
15 of the cannabis plant exclusively for industrial purposes (fibre and seed) or horticultural
16 purposes."; and

17 WHEREAS, industrial hemp is commercially produced in more than thirty countries,
18 including Canada, Great Britain, France, Germany, Romania, Australia, and China without
19 undue restriction or complications; and

20 WHEREAS, American companies are forced to import millions of dollars worth of hemp
21 seed and fiber products annually from Canada, Europe, and China, thereby effectively denying
22 American farmers an opportunity to compete and share in the profits; and

23 WHEREAS, nutritious hemp foods can be found in grocery stores nationwide and strong
24 durable hemp fibers can be found in the interior parts of millions of American cars; and

1 WHEREAS, buildings are being constructed using a hemp and lime mixture, thereby
2 sequestering carbon; and

3 WHEREAS, retail sales of hemp products for 2012 in this country are estimated to be over
4 \$500 million annually; and

5 WHEREAS, industrial hemp is a high-value low-input crop that is not genetically modified,
6 requires little or no pesticides, can be dry land farmed, and uses less fertilizer than wheat and
7 corn; and

8 WHEREAS, the reluctance of the United States Drug Enforcement Administration to permit
9 industrial hemp farming is denying agricultural producers in this country the ability to benefit
10 from a high-value, low-input crop, which can provide significant economic benefits to producers
11 and manufacturers; and

12 WHEREAS, the United States Drug Enforcement Administration has the authority under
13 the Controlled Substances Act to allow this state to regulate industrial hemp farming under
14 existing laws and without requiring individual federal applications and licenses:

15 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Eighty-
16 Ninth Legislature of the State of South Dakota, the Senate concurring therein, that the South
17 Dakota Legislature urges the Congress of the United States to recognize industrial hemp as a
18 valuable agricultural commodity, to define industrial hemp in federal law as nonpsychoactive
19 and genetically identifiable species of the genus cannabis, to acknowledge that allowing and
20 encouraging farmers to produce industrial hemp will improve the balance of trade by promoting
21 domestic sources of industrial hemp, and to assist United States producers by removing barriers
22 to state regulation of the commercial production of industrial hemp; and

23 BE IT FURTHER RESOLVED, that the Legislature also urges the United States Drug
24 Enforcement Administration to allow South Dakota to regulate industrial hemp farming under

- 1 existing state laws and regulations, or those to be passed, without requiring federal applications,
- 2 licenses, or fees.