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4 INTERIM RESOLUTION 2023-005  
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6 REQUESTING THE SENATE COMMITTEE ON AGRICULTURE, FORESTRY, AND  
7 ECONOMIC DEVELOPMENT AND THE HOUSE COMMITTEE ON AGRICULTURE,  
8 FORESTRY, AND ECONOMIC DEVELOPMENT ENCOURAGE THE UNITED STATES  
9 CONGRESS TO ENSURE THAT PRIOR CONVERTED CROPLAND THAT IS LEASED  
10 FOR SOLAR ARRAYS MAINTAINS ITS DESIGNATION AS "AVAILABLE FOR  
11 AGRICULTURE" THROUGH AN AMENDMENT TO THE AGRICULTURE IMPROVEMENT  
12 ACT OF 2018 (ALSO KNOWN AS THE FARM BILL) OR IN UNITED STATES  
13 DEPARTMENT OF AGRICULTURE GUIDANCE.  
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15 WHEREAS, prior converted croplands are wetlands that were converted to  
16 agricultural use before December 23, 1984; and  
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18 WHEREAS, wetland conservation provisions in the Food Security Act of  
19 1985 protect wetlands on private lands from conversions to nonagricultural  
20 use to ensure that production of a commodity crop is possible; and  
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22 WHEREAS, the status of prior converted cropland exempts the land from  
23 Clean Water Act regulations unless there is a change in land use, which  
24 occurs when cropland becomes unavailable for agricultural use through  
25 commercial or residential development; and  
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27 WHEREAS, certain conservation activities, including wildlife  
28 management, forestry, and fallowing land, are not considered changes in land  
29 use due to the ability to return to agricultural production at any time; and  
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31 WHEREAS, while solar leases are clearly nonagricultural, the land also  
32 remains available for agricultural production upon termination of the lease;  
33 therefore, prior converted cropland leased for solar arrays faces uncertainty  
34 regarding its prior converted cropland status; and  
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36 WHEREAS, under the current memorandum between the United States

1 Department of Agriculture, the United States Environmental Protection Agency,  
2 and other federal agencies, the status of prior converted cropland follows  
3 United States Department of Agriculture guidance, with no penalties for  
4 abandonment as long as the land remains available for the production of  
5 agricultural commodities; and  
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7 WHEREAS, the United States Department of Agriculture manual currently  
8 classifies solar arrays as nonagricultural; therefore, prior converted  
9 cropland leased for solar arrays would lose its prior converted cropland  
10 designation and jeopardize its certified wetland determination, which would  
11 prevent the land from returning to crop production in the future; and  
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13 WHEREAS, this potential risk could, in turn, erode land values; and  
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15 WHEREAS, the Agriculture Improvement Act of 2018 or United States  
16 Department of Agriculture guidance needs to be amended to ensure that prior  
17 converted cropland leased for solar arrays maintains its available for  
18 agriculture status through designation as "fallow" or other appropriate  
19 designation,  
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21 NOW THEREFORE,

22 BE IT RESOLVED BY THE SENATE COMMITTEE ON AGRICULTURE, FORESTRY, AND ECONOMIC  
23 DEVELOPMENT AND THE HOUSE COMMITTEE ON AGRICULTURE, FORESTRY, AND ECONOMIC  
24 DEVELOPMENT OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 THAT the Senate Committee on Agriculture, Forestry, and Economic  
27 Development and the House Committee on Agriculture, Forestry, and Economic  
28 Development encourage the United States Congress to review issues related to  
29 prior converted cropland leased as solar arrays and make amendments to the  
30 Agriculture Improvement Act of 2018 or to United States Department of  
31 Agriculture guidance to ensure that prior converted cropland leased as solar  
32 arrays maintains its available for agriculture status through an appropriate  
33 designation.  
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35 BE IT FURTHER RESOLVED THAT upon adoption of this resolution, a copy be  
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1 provided by the staff of the Bureau of Legislative Research to the United  
2 States Department of Agriculture, the majority leader of the United States  
3 Senate, the Speaker of the United States House of Representatives, and the  
4 members of the Arkansas congressional delegation.

5 Respectfully submitted,

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8 Senator Ronald Caldwell

9 District 10  
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13 Representative Roger D. Lynch

14 District 60

15 Prepared by: CRH/CRH  
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