

Fifty-eighth
Legislative Assembly
of North Dakota

SENATE CONCURRENT RESOLUTION NO. 4032

Introduced by

Senator Mathern

Representative Porter

1 A concurrent resolution directing the Legislative Council to study the feasibility and desirability
2 of enacting legislation authorizing perpetual conservation easements.

3 **WHEREAS**, current North Dakota law provides that the duration of an easement,
4 servitude, or nonappurtenant restriction on the use of real property must be specifically set out,
5 and may not exceed 99 years; and

6 **WHEREAS**, a perpetual conservation easement or perpetual conservation restriction is
7 a legal agreement between a landowner and a land trust or government agency that
8 permanently protects its conservation and historic preservation values; and

9 **WHEREAS**, perpetual easements, including perpetual conservation easements, are not
10 allowed under current North Dakota law; and

11 **WHEREAS**, some North Dakota landowners wish to take advantage of perpetual
12 easements to protect their land's agricultural, conservation, and historic preservation values in
13 perpetuity and if a landowner grants an easement in perpetuity as a charitable gift, the
14 landowner may be entitled to federal income and estate tax advantages; and

15 **WHEREAS**, perpetual conservation easements would allow for permanent flood
16 easements as a mitigation tool in dealing with the devastating floods that impacted the Red
17 River Valley during much of the 1990s and continue to adversely impact other areas of the
18 state; and

19 **WHEREAS**, the Uniform Conservation Easement Act was approved by the National
20 Conference of Commissioners on Uniform State Laws in 1981 and has been approved by the
21 American Bar Association and adopted by 22 states;

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

24 That the Legislative Council study the feasibility and desirability of enacting legislation
25 authorizing perpetual conservation easements; and

- 1 **BE IT FURTHER RESOLVED**, that the Legislative Council report its findings and
- 2 recommendations, together with any legislation required to implement the recommendations, to
- 3 the Fifty-ninth Legislative Assembly.