

Fifty-eighth  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE CONCURRENT  
RESOLUTION NO. 4032

Introduced by

Senator Mathern

Representative Porter

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

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

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

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

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

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

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

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

- 1           That the Legislative Council study perpetual and nonperpetual easements and the
- 2 feasibility and desirability of enacting legislation authorizing perpetual conservation easements;
- 3 and
- 4           **BE IT FURTHER RESOLVED**, that the Legislative Council report its findings and
- 5 recommendations, together with any legislation required to implement the recommendations, to
- 6 the Fifty-ninth Legislative Assembly.