

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; the feasibility and desirability of enacting legislation authorizing perpetual  
3 conservation easements; and the modification, salability, and termination of existing perpetual  
4 easements.

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

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

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

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

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

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

1           **WHEREAS**, the United States Fish and Wildlife Service has acquired many perpetual  
2 easements for waterfowl production areas, wildlife refuges, and other wildlife or waterfowl  
3 purposes;

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

6           That the Legislative Council study perpetual and nonperpetual easements; the  
7 feasibility and desirability of enacting legislation authorizing perpetual conservation easements;  
8 and the modification, salability, and termination of existing perpetual easements; and

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