

Introduced by

Senators O'Connell, Grindberg, Wardner

Representatives Berg, S. Meyer, Skarphol

1 A concurrent resolution urging Congress to preserve the exemption of hydraulic fracturing from
2 the provisions of the Safe Drinking Water Act and to not enact legislation that removes the
3 exemption for hydraulic fracturing.

4 **WHEREAS**, Congress enacted the Safe Drinking Water Act to ensure the protection of
5 the nation's drinking water sources; and

6 **WHEREAS**, since enactment of the Safe Drinking Water Act, the Environmental
7 Protection Agency has never interpreted hydraulic fracturing as constituting "underground
8 injection" under the Safe Drinking Water Act; and

9 **WHEREAS**, in 2004 the Environmental Protection Agency published a final report
10 summarizing a study to evaluate the potential threat to underground sources of drinking water
11 from hydraulic fracturing of coalbed methane production wells and the Environmental
12 Protection Agency concluded that "additional or further study is not warranted at this time..."
13 and that "the injection of hydraulic fracturing fluids into coalbed methane wells poses minimal
14 threat to the underground sources of drinking water"; and

15 **WHEREAS**, Congress, in the Energy Policy Act of 2005, explicitly exempted hydraulic
16 fracturing from the provisions of the Safe Drinking Water Act; and

17 **WHEREAS**, the Interstate Oil and Gas Compact Commission conducted a survey of
18 North Dakota and other oil and gas-producing states which found that there were no known
19 cases of ground water contamination associated with hydraulic fracturing; and

20 **WHEREAS**, hydraulic fracturing is currently, and has been for decades, a common
21 operation used in exploration and production by the oil and gas industry in North Dakota and all
22 the member states of the Interstate Oil and Gas Compact Commission; and

23 **WHEREAS**, approximately 35,000 wells are hydraulically fractured annually in the
24 United States, and close to one million wells have been hydraulically fractured in the United
25 States since the technique's inception, with no known harm to ground water; and

1 **WHEREAS**, the regulation of oil and gas exploration and production activities, including
2 hydraulic fracturing, has traditionally been the province of the states; and

3 **WHEREAS**, the success of the Bakken Formation and development of domestic oil and
4 gas resources across the United States has been revitalized by technological advancements
5 which include the ability to fracture and stimulate challenging geological formations, such as the
6 Bakken Formation in North Dakota, and thus should not be limited in the absence of any
7 evidence that such fracturing has damaged the environment; and

8 **WHEREAS**, the Safe Drinking Water Act was never intended to grant to the federal
9 government authority to regulate oil and gas drilling and production operations, such as
10 "hydraulic fracturing," under the underground injection control program; and

11 **WHEREAS**, North Dakota and other member states of the Interstate Oil and Gas
12 Compact Commission have adopted comprehensive laws and regulations to provide for safe
13 operations and to protect the nation's drinking water sources and have trained personnel to
14 effectively regulate oil and gas exploration and production; and

15 **WHEREAS**, domestic production of natural gas will ensure that the United States
16 continues on the path to energy independence; and

17 **WHEREAS**, regulation of hydraulic fracturing as underground injection under the Safe
18 Drinking Water Act would impose significant administrative costs on the state, substantially
19 increase the cost of drilling oil and gas wells, and potentially stop the development of our state's
20 valuable natural resources, including the Bakken and other formations with no resulting
21 environmental benefits; and

22 **WHEREAS**, regulation of hydraulic fracturing as underground injection under the Safe
23 Drinking Water Act would increase energy costs to the consumer;

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

26 That the Sixty-first Legislative Assembly urges the Congress of the United States to
27 preserve the exemption of hydraulic fracturing from the provisions of the Safe Drinking Water
28 Act and urges the Congress of the United States not to enact legislation that removes the
29 exemption for hydraulic fracturing; and

30 **BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this
31 resolution to the President of the United States, to the President of the Senate and the Speaker

Sixty-first
Legislative Assembly

- 1 of the House of Representatives of the United States, and to each member of the North Dakota
- 2 Congressional Delegation.