Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009

SENATE CONCURRENT RESOLUTION NO. 4020
(Senators O'Connell, Grindberg, Wardner)
(Representatives Berg, S. Meyer, Skarphol)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States, and to each member of the North Dakota Congressional Delegation.

President of the Senate	Speaker of the House
Secretary of the Senate	Chief Clerk of the House

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State