

Introduced by

Representatives Tveit, K. Anderson, Morton, S. Olson, Rohr, Henderson, Hoverson

Senators Clemens, Enget, Lemm, Magrum, Weston

1 A concurrent resolution urging the United States Supreme Court to restore the definition of
2 marriage to a union between one man and one woman.

3 **WHEREAS**, the United States Supreme Court decision in *Obergefell v. Hodges*, 135 S.Ct.
4 2584 (2015), conflicts with the United States Constitution and the principles upon which the
5 United States was established; and

6 **WHEREAS**, liberty has long been understood as individual freedom from governmental
7 action, not as a right to a particular governmental entitlement; and

8 **WHEREAS**, *Obergefell v. Hodges* invokes a definition of liberty the framers of the United
9 States Constitution would not have recognized, rejecting the idea captured in the Declaration of
10 Independence that human dignity is innate, and instead suggesting it comes from the
11 government; and

12 **WHEREAS**, the framers of the United States Constitution proclaimed in the Declaration of
13 Independence that all men are created equal and endowed by their creator with certain
14 unalienable rights and refer to the laws of nature and God, to which all men are subject; and

15 **WHEREAS**, *Obergefell v. Hodges* undermines this vision by declaring that citizens must
16 seek dignity from the state; and

17 **WHEREAS**, the judicial branch of government is authorized to interpret the law but it does
18 not have the authority to legislate from the bench to enact policy decisions, as legislative
19 powers are properly vested in the legislative branch of government; and

20 **WHEREAS**, *Obergefell v. Hodges* relies on the dangerous fiction of treating the due
21 process clause as a font of substantive rights, a doctrine which strays from the full meaning of
22 the United States Constitution and exalts judges at the expense of the people from whom they
23 derive their authority; and

1 **WHEREAS**, the *Obergefell v. Hodges* decision's inversion of the original meaning of liberty
2 causes collateral damage to other aspects of our constitutional order that protect liberty,
3 including religious liberty; and

4 **WHEREAS**, *Obergefell v. Hodges* requires states to issue a marriage license to a same-sex
5 couple and recognize same-sex marriage in complete contravention of a state's own
6 constitution and the will of the state's voters, thus undermining the civil liberties of those states'
7 residents and voters; and

8 **WHEREAS**, marriage as an institution has been recognized as a union between one man, a
9 biological male, and one woman, a biological female, for more than two thousand years, and
10 within common law, the basis of the United States Anglo-American legal tradition, for more than
11 eight hundred years; and

12 **WHEREAS**, *Obergefell v. Hodges* arbitrarily and unjustly rejected the definition of marriage
13 as a union between one man and one woman in favor of a novel, flawed interpretation of key
14 clauses within the United States Constitution and our nation's legal and cultural precedents; and

15 **WHEREAS**, *Obergefell v. Hodges* is an illegitimate overreach;

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

18 The Sixty-ninth Legislative Assembly rejects the United States Supreme Court decision in
19 *Obergefell v. Hodges* and urges the United States Supreme Court to overturn the decision and
20 leave unaddressed the natural definition of marriage as a union between one man, a biological
21 male, and one woman, a biological female; and

22 **BE IT FURTHER RESOLVED**, the Sixty-ninth Legislative Assembly insists on restoring the
23 issue of marriage and enforcement of all laws pertaining to marriage back to the states and the
24 people; and

25 **BE IT FURTHER RESOLVED**, that the Secretary of State forward a copy of this resolution
26 to the United States Supreme Court.