

Sixty-first  
Legislative Assembly  
of North Dakota

**SENATE CONCURRENT RESOLUTION NO.**

Introduced by

Senator O'Connell

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 pass legislation that removes this  
3 exemption for hydraulic fracturing.

4 **WHEREAS**, the United States Congress passed the Safe Drinking Water Act (43 U.S.C.  
5 § 300h) Safe Drinking Water Act to assure the protection of the nation's drinking water sources;  
6 and

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

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

16 **WHEREAS**, the United State Congress, in the Energy Policy Act of 2004, explicitly  
17 exempted hydraulic fracturing from the provisions of the Safe Drinking Water Act; and

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

21 **WHEREAS**, hydraulic fracturing is currently, and has been for decades, a common  
22 operation used in exploration and production by the oil and gas industry in North Dakota and all  
23 the member states of the Interstate Oil and Gas Compact Commission, approximately 35,000  
24 wells are hydraulically fractured annually in the United States, and close to one million wells  
25 have been

1 hydraulically fractured in the United States since the techniques  
2 inception, with no known harm to groundwater; and

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

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

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

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

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

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

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

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

28 That the Legislature of the State of North Dakota hereby declares its support for  
29 maintaining the exemption of hydraulic fracturing from the provisions of the Safe Drinking Water  
30 Act and urges the Congress of the United States to not pass legislation that removes the  
31 exemption for hydraulic fracturing.

1           **BE IT FURTHER RESOLVED**, that the Secretary of State transmit copies of this  
2 resolution to the President of the United States, to the President of the Senate and the Speaker  
3 of the House of Representatives of the United States and to the North Dakota Congressional  
4 Delegation.