

**FIRST ENGROSSMENT
with Conference Committee Amendments****ENGROSSED HOUSE BILL NO. 1040**

Introduced by

Legislative Council

(Insurance and Health Care Committee)

1 A BILL for an Act to amend and reenact sections 61-04.1-03, 61-04.1-08, 61-04.1-09,
2 61-04.1-20, 61-04.1-21, 61-04.1-26, 61-04.1-38, and 61-04.1-39 of the North Dakota Century
3 Code, relating to hail suppression pilot operations by the atmospheric resource board; and to
4 repeal section 61-04.1-03.1 of the North Dakota Century Code, relating to the transition from
5 the weather modification board to the atmospheric resource board.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 61-04.1-03 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **61-04.1-03. Definitions.** As used ~~herein~~ in this chapter, unless the context or subject
10 ~~matter~~ otherwise requires:

- 11 1. "Board" means the North Dakota atmospheric resource board which, in the
12 exercise of the powers granted ~~herein~~ under this chapter, ~~shall have~~ has all of the
13 powers of an administrative agency as defined in chapter 28-32.
- 14 2. "Controller" refers to any licensee duly authorized in this state to engage in
15 weather modification ~~activities~~ operations.
- 16 3. "Geographical region" means a geographical area with a contiguous boundary that
17 may enclose a portion of any county or counties.
- 18 4. 5. "Hail suppression" refers to the activation of any process ~~which~~ that will reduce,
19 modify, suppress, eliminate, or soften hail formed in clouds or storms.
- 20 4- 5. "Increasing precipitation" refers to the activation of any process ~~which~~ that will
21 actually result in greater amounts of moisture reaching the ground in any area from
22 a cloud or cloud system than would have occurred naturally.

5- 6. "Initiating precipitation" refers to the process of causing precipitation from clouds
that ~~which~~ could not otherwise have occurred naturally or inducing precipitation
significantly earlier than would have occurred naturally.

6- 7. "Operation" means the performance of any weather modification activity
undertaken for the purpose of producing or attempting to produce any form of
modifying effect upon the weather within a limited geographical area or within a
limited period of time.

7- 8. "Research and development" means exploration, field experimentation, and
extension of investigative findings and theories of a scientific or technical nature
into practical application for experimental and demonstration purposes, including
the experimental production of models, devices, equipment, materials, and
processes.

8- 9. "Weather modification" means and extends to the control, alteration, and
amelioration of weather elements including man-caused changes in the natural
precipitation process, hail suppression or modification, and alteration of other
weather phenomena including clouds, temperature, wind direction, and velocity,
and the initiating, increasing, decreasing, and otherwise modifying by artificial
methods of precipitation in the form of rain, snow, hail, mist, or fog through cloud
seeding, electrification, or by other means to provide immediate practical benefits.

10. "Weather modification authority" means the governing body created by a board of
county commissioners under section 61-04.1-22.1, 61-04.1-23, 61-04.1-27,
61-04.1-29, or 61-04.1-31.

SECTION 2. AMENDMENT. Section 61-04.1-08 of the North Dakota Century Code is
amended and reenacted as follows:

61-04.1-08. Powers and duties of board. The board ~~may exercise~~ has the following
powers and ~~shall have the following~~ duties:

1. The board shall appoint an executive director to serve at ~~its~~ the board's discretion,
and to perform ~~such~~ duties ~~as~~ assigned by the board.
2. The board shall authorize the employment of ~~whatever~~ staff ~~it~~ the board deems
necessary to carry out the provisions of this chapter. The executive director shall
hire the staff, subject to the approval of the board.

- 1 3. The board shall adopt rules concerning qualifications, procedures, and conditions
2 for issuance, revocation, suspension, and modification of licenses and permits;
3 standards and instructions governing weather modification operations, including
4 monitoring and evaluation; recordkeeping and reporting, and the board shall
5 establish procedures and forms for ~~such~~ this recordkeeping and reporting. The
6 board may adopt all other rules necessary to the administration of this chapter.
7 The provisions of chapter 28-32 ~~shall~~ apply to this chapter; and rules of the board
8 ~~shall~~ must be published in the North Dakota Administrative Code.
- 9 4. The board may contract with any person, ~~association, partnership, corporation, or~~
10 ~~limited liability company, with the federal government, and with any county or~~
11 ~~groups of counties, as provided in section 61-04.1-20,~~ to carry out weather
12 modification operations and ~~shall~~, in connection with regulated weather
13 modification operations in a county or geographical region, shall carry on
14 monitoring and evaluation activities.
- 15 5. The board may order any person who is conducting weather modification
16 operations in violation of this chapter; or any rules adopted ~~pursuant~~ to it
17 implement this chapter, to cease and desist from ~~such~~ those operations and the
18 order ~~shall be~~ is enforceable in any court of competent jurisdiction within this state.
- 19 6. The board may cooperate and contract with any ~~private person or any local, state,~~
20 ~~or national commission, organization, or agency~~ engaged in activities similar to the
21 work of the board and may make contracts and agreements to carry out programs
22 consistent with the purpose and intent of this chapter. The board may ~~also, in~~
23 ~~accordance with law,~~ request and accept any grants of funds or services from any
24 ~~such commission, organization, person, or agency,~~ and expend ~~such~~ these funds
25 or use ~~such~~ these services to carry out ~~the provisions of~~ this chapter.
- 26 7. The board shall monitor the current state of knowledge regarding the magnitude
27 and impacts of possible regional and global climatic changes and shall provide
28 ~~such~~ information to other state agencies that may benefit from ~~such~~ this
29 knowledge.
- 30 8. The board shall administer and enforce the provisions of this chapter and do all
31 things reasonably necessary to effectuate the purposes of this chapter.

- 1 9. The board may plan and study a hail suppression pilot program that would provide
2 urban and rural hail suppression operations statewide or to any portion of the
3 state.

4 **SECTION 3. AMENDMENT.** Section 61-04.1-09 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **61-04.1-09. Board to establish research and development program - Hail**
7 **suppression pilot program.**

- 8 1. The board shall establish a program of weather modification research and
9 development in this state. The board shall supervise and coordinate all research
10 and development activities in the state or research and development activities
11 outside of the state participated in or conducted by any state institution or state or
12 county agency.
- 13 2. If the board plans and studies a hail suppression pilot program, the board may
14 conduct a planning phase that includes studying the impact on the environment,
15 providing public education, and formulating an operations plan.

16 **SECTION 4. AMENDMENT.** Section 61-04.1-20 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **61-04.1-20. Board may create operating districts - Representation of**
19 **noncontracting counties.** The board ~~shall have the authority to~~ may place any county
20 ~~contracting or geographical region for which a person contracts~~ with the state for weather
21 modification operations; in ~~such an~~ any operational district as the board ~~shall deem~~ determines
22 necessary to best provide ~~such that~~ that county or geographical region with the benefits of weather
23 modification. In determining the boundaries of ~~such an operating districts~~ district, the board
24 shall consider the patterns of crops within the state, climatic patterns, and the limitations of
25 aircraft and other technical equipment. The board may assign any county ~~which that~~ which has not
26 created a weather modification authority under this chapter to an operating district solely for the
27 purpose of representation on the operations committee of ~~such that~~ that district.

28 **SECTION 5. AMENDMENT.** Section 61-04.1-21 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **61-04.1-21. District operations advisory committees created - Duties.**

- 1 1. There ~~shall~~ must be a district operations advisory committee in each operations
2 district created in accordance with section 61-04.1-20. Each committee ~~shall~~ must
3 be composed of one commissioner of the weather modification authority, if a
4 weather modification authority exists, from each county within ~~such~~ the district; a
5 representative of each person contracting for a geographical region assigned to
6 the district; and one member of the board of county commissioners from ~~the~~ each
7 county ~~or counties~~ assigned to the district ~~in accordance with section 61-04.1-20~~.
8 Each advisory committee ~~shall~~, upon majority vote, with the concurrence of the
9 board, ~~prescribe~~ shall adopt rules and bylaws necessary to govern ~~its~~ that
10 committee's procedures and meetings. Each committee shall evaluate weather
11 modification operations within ~~its respective~~ that committee's district and make
12 recommendations and proposals to the board concerning ~~such~~ these operations.
- 13 2. The weather modification authority of any county authorized to contract for weather
14 modification operations under this chapter ~~and~~ which is not assigned to an
15 operations district; shall assume the functions of the district operations committee
16 and ~~shall have and~~ may exercise the powers and duties assigned to the operations
17 committees by this chapter and by the rules of the board.

18 **SECTION 6. AMENDMENT.** Section 61-04.1-26 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **61-04.1-26. Tax may be certified by weather modification authority.** The weather
21 modification authority may certify annually to the board of county commissioners a tax of not to
22 exceed seven mills upon the taxable valuation of the property in the county for a "weather
23 modification" fund. If weather modification services are not provided to the entire county, the
24 weather modification authority may certify annually to the board of county commissioners a tax
25 for a weather modification fund of not to exceed seven mills upon the taxable valuation of the
26 property in the county designated to receive weather modification services. The tax shall be
27 levied by the board of county commissioners and may be levied in excess of the mill levy limit
28 fixed by law for taxes for general county purposes. The weather modification fund shall be
29 used only for weather modification activities in conjunction with the state of North Dakota. The
30 tax certified by the weather modification authority is limited to the period of existence of the
31 weather modification authority as provided for in this chapter.

SECTION 7. AMENDMENT. Section 61-04.1-38 of the North Dakota Century Code is amended and reenacted as follows:

61-04.1-38. Board may receive and expend funds. The board ~~is hereby authorized to may~~ receive and accept in the name of the state any ~~and all funds which may be that are~~ offered or become available from any federal grants grant or appropriations appropriation, private ~~gifts gift~~, donations donation, or ~~bequests bequest~~, county funds, or funds from any other source; except license and permit fees, and to expend ~~said these~~ funds for the expense of administering this chapter, and, with the exception of county funds and funds from any other person contracting with the board for weather modification operations, for the encouragement of research and development in weather modification by any private person, the North Dakota state university, the university of North Dakota, or any other appropriate state, county, or public agency in this state ~~either~~ by direct grant, ~~by~~ contract, or ~~by~~ other means.

All federal grants, federal appropriations, private gifts, donations, or bequests, county funds, or funds from any other source; except license and permit fees, received by the board ~~shall must~~ be paid over to the state treasurer, who shall credit ~~same this amount~~ to a special fund in the state treasury known as the "state weather modification fund". All proceeds deposited by the state treasurer in the state weather modification fund are hereby appropriated to the board and ~~shall~~, if expended, must be disbursed by warrant-check prepared by the office of management and budget upon vouchers submitted by the board; and ~~shall must~~ be used for the purpose of paying for the expense of administration of this chapter and, with the exception of county funds or funds from any other person contracting with the board for weather modification operations, for the encouragement of research and development in weather modification by any private person, the North Dakota state university, the university of North Dakota, or any other appropriate state, county, or public agency by direct grant, ~~by~~ contract, or ~~by~~ other means.

SECTION 8. AMENDMENT. Section 61-04.1-39 of the North Dakota Century Code is amended and reenacted as follows:

61-04.1-39. ~~County appropriations~~ Payment for weather modification - State to provide funds. Any ~~county~~ weather modification authority ~~which has~~ or person that contracted with the board for weather modification operations under this chapter shall appropriate to the state weather modification fund ~~such the amount as is~~ determined by the board to be

1 necessary to provide ~~such county~~ that weather modification authority or person with weather
2 modification operations. The board may expend, from the state weather modification fund,
3 ~~such the funds as it the board~~ deems necessary to provide a contracting counties weather
4 modification authority or person with weather modification operations.

5 **SECTION 9. REPEAL.** Section 61-04.1-03.1 of the North Dakota Century Code is
6 repealed.