

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1249

Introduced by

Representatives Steiner, Carlson, Delzer, Hofstad, Onstad

Senators Schneider, Wardner

1 A BILL ~~for an Act to create and enact section 61-02-79 of the North Dakota Century Code,~~
2 ~~relating to creation of the Missouri River empower council; and to provide for a report~~for an Act
3 to create and enact chapter 61-42 of the North Dakota Century Code, relating to the creation of
4 the Missouri River empower advisory council.

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

6 ~~— **SECTION 1.** Section 61-02-79 of the North Dakota Century Code is created and enacted as~~
7 ~~follows:~~

8 ~~— **61-02-79. Missouri River empower council – Report.**~~

9 ~~— 1. Because the Missouri River provides most of the surface water flow in the state and is~~
10 ~~essential for water supplies of cities and rural water systems across the state, because~~
11 ~~the Missouri River system provides extraordinary recreational opportunities, because it~~
12 ~~is a goal of the state that the United States army corps of engineers accommodate~~
13 ~~North Dakota's interests in developing and implementing the annual operating plan~~
14 ~~under the Missouri River master manual, and because the Three Affiliated Tribes of~~
15 ~~the Fort Berthold Reservation and the Standing Rock Sioux Tribe have a significant~~
16 ~~stake in the use and development of the water resources in the Missouri River system,~~
17 ~~the Missouri River empower council is created to advocate for North Dakota's rights in~~
18 ~~the Missouri River, to achieve greater utilization of the lands adjacent to and~~
19 ~~surrounding the Missouri River system, and to provide grassroots and stakeholder~~
20 ~~representation for developing policies, priorities, and recommendations to the~~
21 ~~legislative assembly.~~

22 ~~— 2. The Missouri River empower council is composed of:~~

23 ~~— a. The following ex officio members:~~

24 ~~— (1) The governor or the governor's designee;~~

- 1 ~~_____ (2) The director of the game and fish department or the director's designee,~~
- 2 ~~who serves as a nonvoting member;~~
- 3 ~~_____ (3) The director of the parks and recreation department or the director's~~
- 4 ~~designee, who serves as a nonvoting member;~~
- 5 ~~_____ (4) The state engineer or the state engineer's designee, who serves as a~~
- 6 ~~nonvoting member;~~
- 7 ~~_____ (5) The state health officer or the state health officer's designee, who serves as~~
- 8 ~~a nonvoting member;~~
- 9 ~~_____ (6) The commissioner of the department of commerce or the commissioner's~~
- 10 ~~designee, who serves as a nonvoting member;~~
- 11 ~~_____ (7) The director of the department of commerce division of tourism or the~~
- 12 ~~director's designee, who serves as a nonvoting member;~~
- 13 ~~_____ (8) The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation~~
- 14 ~~or the chairman's designee; and~~
- 15 ~~_____ (9) The chairman of the Standing Rock Sioux Tribe or the chairman's designee;~~
- 16 ~~b. The following members appointed by the governor:~~
- 17 ~~_____ (1) A representative of the Missouri River joint water board, or similar~~
- 18 ~~organization;~~
- 19 ~~_____ (2) A representative of friends of Lake Oahe, or similar organization;~~
- 20 ~~_____ (3) A representative of friends of Lake Sakakawea, or similar organization;~~
- 21 ~~_____ (4) A representative of the North Dakota irrigation association, or similar~~
- 22 ~~organization;~~
- 23 ~~_____ (5) A representative of the North Dakota water users association, or similar~~
- 24 ~~organization;~~
- 25 ~~_____ (6) A representative of the North Dakota water resource districts association, or~~
- 26 ~~similar organization;~~
- 27 ~~_____ (7) A representative of the North Dakota rural water systems association, or~~
- 28 ~~similar organization;~~
- 29 ~~_____ (8) A representative of the independent water providers, or similar organization;~~
- 30 ~~_____ (9) A representative of the oil industry;~~
- 31 ~~_____ (10) A representative of the lignite energy industry;~~

- ~~(11) A representative of the generation and transmission electric cooperative industry;~~
- ~~(12) A representative of the North Dakota association of oil and gas producing counties, or similar organization;~~
- ~~(13) A representative of the North Dakota league of cities, or similar organization;~~
- ~~(14) Six county commissioners, each representing a different one of the six counties bordering Lake Sakakawea;~~
- ~~(15) A representative of the southwest water authority, who serves as a nonvoting member;~~
- ~~(16) A representative of the western area water supply authority, who serves as a nonvoting member;~~
- ~~(17) A representative of the northwest area water supply project, who serves as a nonvoting member; and~~
- ~~(18) A representative of the Garrison Diversion Conservancy District, who serves as a nonvoting member; and~~
- ~~c. Any additional members appointed by the governor, who will serve as nonvoting members.~~
- ~~3. Each member of the council appointed by the governor shall serve for a term of two years, beginning July first; may be reappointed for additional terms, not to exceed eight consecutive years; and serves at the pleasure of the governor.~~
- ~~4. The governor or the governor's designee is chairman of the council. The board may elect an executive committee to consist of five or more voting members, with such powers and duties as may be delegated by the council.~~
- ~~5. The council shall meet at least quarterly or as often as the chairman deems necessary. A majority of the voting membership constitutes a quorum. The council shall hold at least two public hearings per biennium at which time interested parties may present testimony regarding issues pertinent to the Missouri River, Lake Sakakawea, or Lake Oahe. The council may travel outside the state to meet with the United States army corps of engineers or other federal agency or to meet with the United States congress to address issues concerning North Dakota's interests in the Missouri River.~~

1 ~~6. The council shall establish working groups and shall collaborate with existing~~
2 ~~organizations to make recommendations and accomplish objectives in the areas of~~
3 ~~irrigation, hydropower, water supply, energy development, conservation and wildlife,~~
4 ~~Lake Sakakawea, and Lake Oahe. The council shall work to strengthen the state's~~
5 ~~working relationship with the United States army corps of engineers in order to~~
6 ~~improve the state's negotiating position with the United States army corps of engineers~~
7 ~~and to enhance the economic development of the state.~~

8 ~~7. Periodically the council shall report to the water topics overview committee on the~~
9 ~~activities of the council.~~

10 ~~8. The members of the council who are not state employees are entitled to receive~~
11 ~~mileage and expenses as provided by law for state officers and employees. Unless~~
12 ~~otherwise provided in this subsection, the expenses of appointed members are to be~~
13 ~~paid by the state water commission. A state employee who is an ex officio member of~~
14 ~~the council is entitled to receive that employee's regular salary and is entitled to~~
15 ~~receive mileage and expenses, to be paid by the employing agency.~~

16 ~~9. Funds from the resources trust fund will be appropriated to the the state water~~
17 ~~commission to fund the activities of the council. The state water commission shall~~
18 ~~provide staffing and support services for the council. The state water commission may~~
19 ~~contract with a third party to provide staffing and support services for the council and~~
20 ~~may hire an executive director and other personnel as necessary to provide staffing~~
21 ~~and support services for the council.~~

22 ~~**SECTION 2. MISSOURI RIVER EMPOWER COUNCIL -- STUDY -- REPORT.**~~

23 ~~1. During the 2015-16 interim, in accordance with the duties of the Missouri River~~
24 ~~empower council under subsection 6 of section 61-02-79, the council shall establish~~
25 ~~working groups and shall collaborate with existing organizations to develop~~
26 ~~recommendations and goals for:~~

27 ~~a. Providing adequate water supplies from the Missouri River system to areas of~~
28 ~~need;~~

29 ~~b. Recreation and development opportunities around Lake Sakakawea and Lake~~
30 ~~Oahe;~~

31 ~~c. Irrigation development;~~

- ~~1 d. Conservation and wildlife enhancement in the Missouri River system;~~
- ~~2 e. Water needs for energy development; and~~
- ~~3 f. Hydropower and electrical generation.~~
- ~~4 2. During the 2015-16 interim, the Missouri River empower council shall undertake a~~
- ~~5 study of resources, opportunities, costs, legal challenges, and other issues relating to~~
- ~~6 the Missouri River, Lake Sakakawea, and Lake Oahe.~~
- ~~7 3. Before July 1, 2016, the council shall report to the water topics overview committee on~~
- ~~8 the study outcomes, recommendations, and goals as well as any related proposed~~
- ~~9 legislation.~~

SECTION 1. Chapter 61-42 of the North Dakota Century Code is created and enacted as follows:

61-42-01. Missouri River empower advisory council - Generally.

The Missouri River comprises the vast majority of surface water flow in the state and is essential for providing the water supply for people, industry, irrigation, agriculture, energy, fish and wildlife, and recreational opportunities. A Missouri River empower advisory council is established to create a unified vision and voice for North Dakota and its stakeholders regarding the use and management of the Missouri River, and to advise the governor, legislative assembly, and state agencies on issues concerning the Missouri River.

61-42-02. Members - Terms - Expenses.

1. The following voting stakeholder members of the council must be appointed by the governor:

- a. A representative of recreation;
- b. A representative of irrigation;
- c. A representative of cities;
- d. A representative of regional rural water systems;
- e. A representative of agriculture;
- f. A representative of energy;
- g. A representative of environment and conservation;
- h. A representative of the Garrison Diversion Conservancy District;
- i. Two at-large representatives;

- 1 j. Three county representatives, each representing counties along the Missouri
- 2 River, one representing counties along the free flowing reach of the Missouri
- 3 River, one representing counties bordering Lake Sakakawea, and one
- 4 representing counties bordering Lake Oahe; and
- 5 k. The governor's designee.
- 6 2. Additional voting members of the council must include:
- 7 a. The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or
- 8 designee;
- 9 b. The chairman of the Standing Rock Sioux Tribe, or designee; and
- 10 c. The chairman of the Trenton Indian service area, or designee.
- 11 3. The following entities may be represented on the council, but are nonvoting members:
- 12 a. A legislator, appointed by the legislative management;
- 13 b. The director of the game and fish department, or designee;
- 14 c. The director of the parks and recreation department, or designee;
- 15 d. The state engineer, or designee;
- 16 e. The state health officer, or designee;
- 17 f. The commissioner of the department of commerce, or designee;
- 18 g. The director of the Indian affairs commission, or designee;
- 19 h. The commissioner of the department of trust lands, or designee;
- 20 i. The director of the oil and gas division, or designee; and
- 21 j. The commissioner of the department of agriculture, or designee.
- 22 4. All other state agencies shall provide assistance to the council as requested.
- 23 5. All appointed members shall serve for a term of four years or until their successors are
- 24 appointed and qualified. Terms expire on the first day of July. The terms of appointed
- 25 members must be staggered so that the terms of at least four members expire each
- 26 year. Appointed members may be reappointed for additional terms and serve at the
- 27 pleasure of the governor.
- 28 6. The governor or the governor's designee is chairman of the council.
- 29 7. The members of the council are entitled to receive mileage and expenses at the rates
- 30 and under the terms as provided by law for state employees. The state water
- 31 commission shall pay the expenses of council members.

1 8. The state water commission shall provide staffing and support services to the council.

2 **61-42-03. Duties - Report to legislative assembly.**

3 1. The council shall hold meetings at least twice per year, or as often as the chairman
4 deems necessary. The meetings must be open to the public and provide an
5 opportunity for the public to present issues or concerns to the council. The council
6 shall provide the governor, legislative assembly, and state agencies with
7 recommendations related to issues needing to be studied or addressed and relating to
8 the protection and use of the Missouri River and operations of the reservoirs. The
9 council shall gather input to build consensus, collaboration, and partnership
10 opportunities to promote and advocate for North Dakota and its stakeholders' rights
11 and interests in the Missouri River. The council shall recommend ways to strengthen
12 the state's working relationship with the United States army corps of engineers, in
13 order to improve the state's negotiating position with the United States army corps of
14 engineers.

15 2. The county and stakeholder representatives shall work to understand and represent
16 grassroots efforts being undertaken by organizations and individuals.

17 3. Any recommendations developed by the council must receive support from ten voting
18 members before submission to the governor, legislative assembly, or state agencies.

19 4. The council may establish working groups and collaborate with organizations to make
20 recommendations or accomplish objectives to protect all interests and rights of North
21 Dakota and stakeholders in the Missouri River. This includes the eight authorized
22 purposes identified in the Flood Control Act of 1944 and implemented by the United
23 States army corps of engineers in their master manual, along with erosion and
24 sedimentation, the management of federal lands, and any other existing or potentially
25 beneficial uses.

26 5. The council shall report accomplishments, ongoing activities, and potential legislation
27 to the legislative assembly.