

**FIRST ENGROSSMENT  
with Conference Committee Amendments**

Fifty-sixth  
Legislative Assembly  
of North Dakota

**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. "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.

- 1       ~~5-~~ 6. "Initiating precipitation" refers to the process of causing precipitation from clouds  
2           ~~that which~~ could not otherwise have occurred naturally or inducing precipitation  
3           significantly earlier than would have occurred naturally.
- 4       ~~6-~~ 7. "Operation" means the performance of any weather modification activity  
5           undertaken for the purpose of producing or attempting to produce any form of  
6           modifying effect upon the weather within a limited geographical area or within a  
7           limited period of time.
- 8       ~~7-~~ 8. "Research and development" means exploration, field experimentation, and  
9           extension of investigative findings and theories of a scientific or technical nature  
10          into practical application for experimental and demonstration purposes, including  
11          the experimental production of models, devices, equipment, materials, and  
12          processes.
- 13      ~~8-~~ 9. "Weather modification" means and extends to the control, alteration, and  
14          amelioration of weather elements including man-caused changes in the natural  
15          precipitation process, hail suppression or modification, and alteration of other  
16          weather phenomena including clouds, temperature, wind direction, and velocity,  
17          and the initiating, increasing, decreasing, and otherwise modifying by artificial  
18          methods of precipitation in the form of rain, snow, hail, mist, or fog through cloud  
19          seeding, electrification, or by other means to provide immediate practical benefits.
- 20      10. "Weather modification authority" means the governing body created by a board of  
21          county commissioners under section 61-04.1-22.1, 61-04.1-23, 61-04.1-27,  
22          61-04.1-29, or 61-04.1-31.

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

25           **61-04.1-08. Powers and duties of board.** The board ~~may exercise~~ has the following  
26   powers and ~~shall have the following~~ duties:

- 27           1. The board shall appoint an executive director to serve at ~~its~~ the board's discretion,  
28           and to perform ~~such~~ duties ~~as~~ assigned by the board.
- 29           2. The board shall authorize the employment of ~~whatever~~ staff ~~it~~ the board deems  
30           necessary to carry out the provisions of this chapter. The executive director shall  
31           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 ~~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 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.

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

3           **61-04.1-38. Board may receive and expend funds.** The board is hereby authorized  
4 ~~to~~ may receive and accept in the name of the state any ~~and all funds which may be~~ that are  
5 offered or become available from any federal grants grant or appropriations appropriation,  
6 private ~~gifts gift, donations donation,~~ or bequests bequest, county funds, or funds from any  
7 other source; except license and permit fees, and to expend ~~said~~ these funds for the expense  
8 of administering this chapter, and, with the exception of county funds and funds from any other  
9 person contracting with the board for weather modification operations, for the encouragement  
10 of research and development in weather modification by any private person, the North Dakota  
11 state university, the university of North Dakota, or any other appropriate state, county, or public  
12 agency in this state ~~either~~ by direct grant, ~~by~~ contract, or ~~by~~ other means.

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

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

28           **61-04.1-39. ~~County appropriations~~ Payment for weather modification - State to**  
29 **provide funds.** Any ~~county~~ weather modification authority ~~which has~~ or person that contracted  
30 with the board for weather modification operations under this chapter shall appropriate to the  
31 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.