

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, 61-04.1-38, and 61-04.1-39 of the North Dakota Century Code, relating  
3 to hail suppression pilot operations by the atmospheric resource board; and to repeal section  
4 61-04.1-03.1 of the North Dakota Century Code, relating to the transition from the weather  
5 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.
- 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.

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.

**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.
3. The board shall adopt rules concerning qualifications, procedures, and conditions  
for issuance, revocation, suspension, and modification of licenses and permits;  
standards and instructions governing weather modification operations, including

1 monitoring and evaluation; recordkeeping and reporting, and the board shall  
2 establish procedures and forms for ~~such~~ this recordkeeping and reporting. The  
3 board may adopt all other rules necessary to the administration of this chapter.  
4 The provisions of chapter 28-32 ~~shall~~ apply to this chapter; and rules of the board  
5 ~~shall~~ must be published in the North Dakota Administrative Code.

- 6 4. The board may contract with any person, ~~association, partnership, corporation, or~~  
7 ~~limited liability company, with the federal government, and with any county or~~  
8 ~~groups of counties,~~ as provided in section 61-04.1-20, to carry out weather  
9 modification operations and ~~shall~~, in connection with regulated weather  
10 modification operations in a county or geographical region, shall carry on  
11 monitoring and evaluation activities.
- 12 5. The board may order any person who is conducting weather modification  
13 operations in violation of this chapter; or any rules adopted ~~pursuant to it~~  
14 implement this chapter, to cease and desist from ~~such~~ those operations and the  
15 order ~~shall be~~ is enforceable in any court of competent jurisdiction within this state.
- 16 6. The board may cooperate and contract with any ~~private person or any local, state,~~  
17 ~~or national commission, organization, or agency~~ engaged in activities similar to the  
18 work of the board and may make contracts and agreements to carry out programs  
19 consistent with the purpose and intent of this chapter. The board may ~~also, in~~  
20 ~~accordance with law,~~ request and accept any grants of funds or services from any  
21 ~~such commission, organization, person, or agency,~~ and expend ~~such~~ these funds  
22 or use ~~such~~ these services to carry out ~~the provisions of~~ this chapter.
- 23 7. The board shall monitor the current state of knowledge regarding the magnitude  
24 and impacts of possible regional and global climatic changes and shall provide  
25 ~~such~~ information to other state agencies that may benefit from ~~such~~ this  
26 knowledge.
- 27 8. The board shall administer and enforce the provisions of this chapter and do all  
28 things reasonably necessary to effectuate the purposes of this chapter.
- 29 9. The board may plan and study a hail suppression pilot program that would provide  
30 urban and rural hail suppression operations statewide or to any portion of the  
31 state.

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

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

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

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

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

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

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

1. There ~~shall~~ must be a district operations advisory committee in each operations district created in accordance with section 61-04.1-20. Each committee ~~shall~~ must be composed of one commissioner of the weather modification authority from each county within ~~such the~~ the district, a representative of each geographical region

assigned to the district under section 61-04.1-20, and one member of the board of county commissioners from ~~the~~ each county ~~or counties~~ assigned to the district ~~in accordance with~~ under section 61-04.1-20. Each advisory committee ~~shall~~, upon majority vote, with the concurrence of the board, ~~prescribe~~ shall adopt rules and bylaws necessary to govern ~~its~~ that committee's procedures and meetings. Each committee shall evaluate weather modification operations within ~~its respective~~ that committee's district and make recommendations and proposals to the board concerning ~~such~~ these operations.

2. The weather modification authority of any county authorized to contract for weather modification operations under this chapter ~~and~~ which is not assigned to an operations district; shall assume the functions of the district operations committee and ~~shall have and~~ may exercise the powers and duties assigned to the operations committees by this chapter and by the rules of the board.

**SECTION 6. 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, 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

1 the purpose of paying for the expense of administration of this chapter and, with the exception  
2 of county funds, for the encouragement of research and development in weather modification  
3 by any private person, the North Dakota state university, the university of North Dakota, or any  
4 other appropriate state, county, or public agency by direct grant, ~~by~~ contract, or ~~by~~ other  
5 means.

6 **SECTION 7. AMENDMENT.** Section 61-04.1-39 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **61-04.1-39. County appropriations - State to provide funds.** Any county weather  
9 modification authority ~~which has~~ that contracted with the board for weather modification  
10 operations under this chapter shall appropriate to the state weather modification fund ~~such the~~  
11 amount ~~as is~~ determined by the board to be necessary to provide ~~such that~~ county with  
12 weather modification operations. The board may expend, from the state weather modification  
13 fund, ~~such the~~ funds ~~as it~~ the board deems necessary to provide a contracting ~~counties~~ county  
14 or geographical region with weather modification operations.

15 **SECTION 8. REPEAL.** Section 61-04.1-03.1 of the North Dakota Century Code is  
16 repealed.