

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Tuesday, the fifth day of January,
one thousand nine hundred and ninety-nine**

HOUSE BILL NO. 1040
(Legislative Council)
(Insurance and Health Care Committee)

AN ACT to amend and reenact sections 61-04.1-03, 61-04.1-08, 61-04.1-09, 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 Code, relating to hail suppression pilot operations by the atmospheric resource board; and to repeal section 61-04.1-03.1 of the North Dakota Century Code, relating to the transition from the weather modification board to the atmospheric resource board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. "Board" means the North Dakota atmospheric resource board which, in the exercise of the powers granted ~~herein~~ under this chapter, ~~shall have~~ has all of the powers of an administrative agency as defined in chapter 28-32.
2. "Controller" refers to any licensee duly authorized in this state to engage in weather modification ~~activities~~ operations.
3. "Geographical region" means a geographical area with a contiguous boundary that may enclose a portion of any county or counties.
4. ~~5.~~ "Hail suppression" refers to the activation of any process ~~which~~ that will reduce, modify, suppress, eliminate, or soften hail formed in clouds or storms.
5. ~~6.~~ "Increasing precipitation" refers to the activation of any process ~~which~~ that will actually result in greater amounts of moisture reaching the ground in any area from a cloud or cloud system than would have occurred naturally.
6. ~~7.~~ "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.
7. ~~8.~~ "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.
8. ~~9.~~ "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.
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 if 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 monitoring and evaluation; recordkeeping and reporting, and the board shall establish procedures and forms for ~~such this~~ recordkeeping and reporting. The board may adopt all other rules necessary to the administration of this chapter. The provisions of chapter 28-32 ~~shall~~ apply to this chapter; and rules of the board ~~shall~~ must be published in the North Dakota Administrative Code.
4. The board may contract with any person, ~~association, partnership, corporation, or limited liability company, with the federal government, and with any county or groups of counties, as provided in section 61-04.1-20,~~ to carry out weather modification operations and ~~shall~~, in connection with regulated weather modification operations in a county or geographical region, shall carry on monitoring and evaluation activities.
5. The board may order any person who is conducting weather modification operations in violation of this chapter; or any rules adopted ~~pursuant to it~~ implement this chapter, to cease and desist from ~~such those~~ operations and the order ~~shall be~~ is enforceable in any court of competent jurisdiction within this state.
6. The board may cooperate and contract with any ~~private person or any local, state, or national commission, organization, or agency~~ engaged in activities similar to the work of the board and may make contracts and agreements to carry out programs consistent with the purpose and intent of this chapter. The board may ~~also, in accordance with law,~~ request and accept any grants of funds or services from any ~~such commission, organization, person, or agency,~~ and expend ~~such these~~ funds or use ~~such these~~ services to carry out ~~the provisions of~~ this chapter.
7. The board shall monitor the current state of knowledge regarding the magnitude and impacts of possible regional and global climatic changes and shall provide ~~such~~ information to other state agencies that may benefit from ~~such this~~ knowledge.
8. The board shall administer and enforce the provisions of this chapter and do all things reasonably necessary to effectuate the purposes of this chapter.
9. The board may plan and study a hail suppression pilot program that would provide urban and rural hail suppression operations statewide or to any portion of the 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 county or geographical region~~ with the benefits of weather modification. In determining the boundaries of ~~such an operating 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~~ 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~~ 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, if a weather modification authority exists, from each county within such the district; a representative of each person contracting for a geographical region assigned to the district; and one member of the board of county commissioners from ~~the each county or counties~~ assigned to the district ~~in accordance with 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 61-04.1-26 of the North Dakota Century Code is amended and reenacted as follows:

61-04.1-26. Tax may be certified by weather modification authority. The weather modification authority may certify annually to the board of county commissioners a tax of not to exceed seven mills upon the taxable valuation of the property in the county for a "weather modification" fund. If weather modification services are not provided to the entire county, the weather modification authority may certify annually to the board of county commissioners a tax for a weather modification fund of not to exceed seven mills upon the taxable valuation of the property in the county designated to receive weather modification services. The tax shall be levied by the board of county commissioners and may be levied in excess of the mill levy limit fixed by law for taxes for general county purposes. The weather modification fund shall be used only for weather modification activities in conjunction with the state of

North Dakota. The tax certified by the weather modification authority is limited to the period of existence of the 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~~ 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 necessary to provide ~~such county~~ that weather modification authority or person with weather modification operations. The board may expend, from the state weather modification fund, ~~such~~ the funds as it the board deems necessary to provide a contracting ~~counties~~ weather modification authority or person with weather modification operations.

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1040.

House Vote: Yeas 61 Nays 30 Absent 7

Senate Vote: Yeas 38 Nays 10 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State