CHAPTER 4-22
SOIL CONSERVATION DISTRICTS LAW

4-22-01. Policy and scope of chapter.

It is the policy of this state and within the scope of this chapter to provide for the conservation of the soil and soil resources of this state and for the control and prevention of soil erosion, and to preserve the state's natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state.

4-22-02. Definitions.

In this chapter, unless the context otherwise requires:

1. "Committee" means the state soil conservation committee.
2. "Director" means the director of the North Dakota state university extension service.
3. "District" means a governmental subdivision of this state, and a public body, corporate and politic, organized in accordance with this chapter for the purposes, with the powers, and subject to the restrictions provided by law.
4. "Due notice" means notice published at least twice, with an interval of at least seven days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area. If this type of publication of general circulation is not available, the term means notice posted at a reasonable number of conspicuous places within the appropriate area, the posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to due notice, at the time and place designated in the notice, adjournment may be made from time to time without the necessity of renewing the notice for the adjourned dates.
5. "Government" includes the government of this state, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.
6. "Land occupier" includes any person that holds title to or is in possession of any lands lying within a district, whether living or located in a rural or urban area within the district.
7. "Petition" means a petition filed under this chapter for the creation of a soil conservation district.
8. "Qualified elector" means an individual who is at least eighteen years old, is a citizen of the United States, and has resided in the precinct thirty days next preceding any election, whether or not the individual is living in a rural or urban area.
9. "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with this chapter.

4-22-03. State soil conservation committee - Elective and appointive members - Records and seal.

1. The committee shall perform the functions conferred upon it in this chapter within the limits of legislative appropriations. The committee consists of seven voting members, of whom five must be elected and two must be appointed by the governor.
2. For the purpose of electing the five elective members of the committee, the state is divided into five areas.
   a. (1) Area I includes Benson, Cavalier, Eddy, Foster, Grand Forks, Nelson, Pembina, Ramsey, Towner, Walsh, and Wells Counties.
      (2) Area II includes Barnes, Cass, Dickey, Griggs, LaMoure, Ransom, Richland, Sargent, Steele, and Traill Counties.
      (3) Area III includes Bottineau, Burke, Divide, McHenry, Mountrail, Pierce, Renville, Rolette, and Ward Counties.

(4) Area IV includes Burleigh, Emmons, Kidder, Logan, McIntosh, McLean, Morton, Oliver, Sheridan, Sioux, and Stutsman Counties.
(5) Area V includes Adams, Billings, Bowman, Dunn, Golden Valley, Grant, Hettinger, McKenzie, Mercer, Stark, Slope, and Williams Counties.

b. One member of the committee must be elected from each of the five areas by vote of the members of the boards of supervisors of the districts in that area. Every voting member of a board of supervisors of a district organized under this chapter is eligible to vote in the election for a member of the committee in the area in which the district is located.

c. Elections must be held under rules adopted by the committee and in cooperation with and at the time of the North Dakota association of soil conservation districts area meetings. In those cases where the territory of a district does not lie wholly within the boundaries of one of the five areas established under this section, the rules must provide for the assignment of the district by the committee for the purposes of the elections, to the area within which most of its population resides.

d. The committee shall conduct the election of members of the committee. The election need not be held on the same dates or in the same places as the general elections for state or local officers.

3. The governor shall appoint two members of the committee. The governor shall appoint individuals who can represent those interests within the state not already represented, or less fully represented, by one or more of the five elected members of the committee. The governor shall attempt, so far as feasible, to make possible suitable representation for all interests in the state in the membership of the committee, including the interests of farmers, livestock growers, rural areas, small towns, cities, and industry and business, recognizing that any single member of the committee may sometimes appropriately be regarded as representing more than one of these interests.

4. The committee shall invite representatives of the state association of soil conservation districts, North Dakota state university extension service, soil conservation service, state water commission, agriculture commissioner, and game and fish department to serve as advisory, nonvoting members of the committee.

5. The term of office of every member of the committee is three years and until a successor is elected or appointed. A member of the committee is eligible for reelection and reappointment, but no member may serve for more than two full, successive terms. The governor may fill a vacancy in either an elective or appointive term for the unexpired term.

4-22-04. Committee - Chairman - Quorum - Compensation.

The committee shall meet annually and select its chairman. The chairman shall serve for a term of one year from the date of selection. An individual may be selected as chairman for a total of three terms. Additional meetings may be held by the committee as considered necessary by the chairman, at a time and place to be fixed by the chairman. The chairman shall call special meetings upon written request of any four members. The members of the committee are entitled to receive one hundred thirty-five dollars per day as compensation for their services on the committee, and are entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee, in the same manner and at the same rate as prescribed by law for state employees and officials.

4-22-05. Employees - Legal services - Offices - State departments to cooperate with committee.

Repealed by S.L. 1997, ch. 50, § 35.

4-22-06. Duties and powers generally.

The committee has the following duties and powers:

1. To offer such assistance as may be appropriate to the supervisors of districts in the carrying out of any of their powers and programs.
2. To keep the supervisors of each of the several districts informed of the activities and experience of all other districts, and to facilitate an interchange of advice and experience between such districts and cooperation between them.
3. To secure the cooperation and assistance of state, federal, regional, interstate, and local, public, and private agencies with districts; and to facilitate arrangements under which districts may assist or serve county governing bodies and other agencies in the administration of any activity concerned with the conservation of natural resources.
4. To review agreements, or forms of agreements, proposed to be entered into by districts with other districts or with state, federal, interstate, or other public or private organizations, and advise the districts concerning such agreements or forms of agreement.
5. To recommend to the director biennial budgets necessary to finance the activities of the committee and districts; and to distribute moneys appropriated by the legislative assembly for grants to soil conservation districts.
6. To represent the state in matters affecting soil conservation.
7. To require annual reports from districts.
8. To establish uniform accounting methods which must be used by districts, and to establish a uniform auditing reporting system.
9. To receive from other state and local agencies for review and comment suitable descriptions of their plans, programs, and activities affecting the conservation of natural resources for purposes of coordination with district conservation programs; to arrange for and participate in conferences necessary to avoid conflict among such plans and programs; to call attention to omissions; and to avoid duplication of effort.

4-22-06.1. Soil conservation - Duties.

The North Dakota state university extension service shall assist the committee in performing the committee's duties, within the limits of legislative appropriation. The director shall instruct extension agents to cooperate in the delivery of information and services to the districts.

4-22-07. Committee to make rules governing notices, hearings, and referenda.

Repealed by S.L. 1971, ch. 94, § 25.

4-22-08. Districts - Petition - Contents - More than one petition filed.

Any twenty-five qualified electors living within the limits of the territory proposed to be organized into a district may file a petition with the state soil conservation committee asking that a soil conservation district be organized in the territory described in the petition. Such petition must set forth:

1. The proposed name of the district.
2. The need for a soil conservation district to function in the territory described in the petition.
3. A description of the territory proposed to be organized as a district.
4. A request that the state soil conservation committee duly define the boundaries for such district, that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory, and that the committee determine that such a district be created.

When more than one petition is filed covering parts of the same territory, the state soil conservation committee may consolidate all or any of such petitions.

4-22-09. Hearings on petitions - When held - Notice - Determinations.

Within thirty days after a petition has been filed with the state soil conservation committee, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity for the creation of such district, the appropriate boundaries to be assigned thereto, the propriety of the petition and the other proceedings taken under this chapter, and

upon all other questions relevant thereto. All qualified electors living within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties have the right to attend and be heard at such hearing. If it appears at the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of hearing has been given, the hearing must be adjourned and notice of further hearing must be given throughout the entire area considered for inclusion in the district, and such further hearing must be held. If the committee determines, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the public interest, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define the boundaries of such district by metes and bounds or by legal subdivisions. In making such determination and in defining such boundaries, the committee shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land use practices, the desirability and necessity of including within the boundaries the particular lands under consideration, the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this chapter, and such other physical, geographic, and economic factors as are relevant, having due regard to the legislative policy set forth in section 4-22-01. If the committee determines after such hearing and due consideration of the relevant facts that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six months has expired from the date of the denial of any such petition, a subsequent petition covering the same or substantially the same territory may be filed and a new hearing held and new determinations made thereon.

4-22-10. Referendum - When held - Contents of ballot - Who may vote.

After the committee has determined the necessity for the organization of a district and has defined the boundaries thereof, it shall hold a referendum within the proposed district upon the proposition of the creation thereof and shall cause due notice of such referendum to be given. The question must be submitted by ballot in substantially the following form:

Shall a soil conservation district be created embracing lands situated in the counties of _____ and _____ and described as follows: (Here inserting description).

Yes ☐

No ☐

All qualified electors living within the boundaries of the proposed district are entitled to vote in such referendum.

4-22-11. Publication of referendum results - Determination of practicability of operation of district.

The committee shall publish the results of any referendum. If a majority of the votes cast in the referendum are in favor of the creation of a district, the committee shall consider and determine whether the operation of a district within the boundaries specified on the referendum is administratively practicable and feasible. In making such determination, the committee shall consider such factors, objects, and other determinations as to accomplish the policy and scope of this chapter as set forth in section 4-22-01.

4-22-12. District determined practicable - Statement filed with secretary of state.

If the committee determines that the operation of a proposed district is administratively practicable and feasible, it shall file with the secretary of state a certified statement indicating and describing the boundaries of such district and the name thereof. Such statement also must indicate the reasons for the formation of such district and the result of the referendum.

4-22-13. District to be subdivision of state - Boundaries of district.

Upon the certification by the committee to the secretary of state as provided in section 4-22-12, the district becomes a governmental subdivision of the state and a body corporate and politic. The secretary of state shall make and issue to the committee a certificate of the due organization of the district under the seal of the state, and shall record such certificate with the application and statement. The boundaries of the district include the territory as determined by the committee, but in no event may such boundaries include any area included within the boundaries of another soil conservation district.

4-22-14. Petition to include additional territory within existing district.

Petitions to include additional territory within an existing district may be filed with the committee at any time, and the proceedings provided in connection with a petition to organize a district must be observed in the case of a petition for such inclusion. Provided, however, that a portion of a district may upon petition of a majority of the qualified electors in such portion, and without an election, be annexed to an adjoining district, and become a part of same upon filing such petition with the state soil conservation committee.

4-22-15. Districts presumed to be organized legally - Copy of certificates as evidence.

In any suit, action, or proceeding involving the validity or enforcement of any contract, proceeding, or action of a district, or relating thereto, the district is deemed to have been established in accordance with the provisions of this chapter, upon proof of the issuance of the certificate of organization by the secretary of state. A copy of such certificate, when duly certified by the secretary of state, is admissible in evidence in any such suit, action, or proceeding and is proof of the filing and contents thereof.

4-22-16. Notice to file nominating petitions and of election of district supervisors.

As soon as practicable after the issuance by the secretary of state of the certificate of organization of a soil conservation district, and before the next general election, the committee shall give notice that nominating petitions may be filed with the county auditor, and that at the next general election held in such district three supervisors must be elected, who must be land occupiers of the district and who constitute the governing body of the district.

4-22-17. Nominating petitions - Petitions required - Final filing date.

Any person running for the office of supervisor shall present to the county auditor of the county in which the district lies a petition giving that person's name and mailing address and the title and term of the office, and containing the signatures of not less than twenty-five nor more than three hundred qualified electors of the district. When a district lies in more than one county, the petition must be filed with the county auditor of the county where the candidate resides, and such county auditor shall certify to the county auditors of the other counties in which such district lies the name and mailing address of the candidate filing such petition. At the same time, the county auditor, or auditors in the case of multicounty districts, shall also certify to the secretary of state the name and mailing address of each person filing a nominating petition according to this section. No person may participate directly or indirectly in the nomination for more than one person for each office to be filled. The final filing date for nominating petitions is no later than sixty-four days before the day of the election and not later than four p.m. of such day.

Upon receipt of the petition or the certification as provided in this section, the county auditor shall without fee place the name of the candidate so nominated on the no-party ballot at the ensuing general election.

4-22-18. Election of supervisors - Payment of expenses - Regulation of elections - Eligibility of voters - Ballots.

Repealed by S.L. 1971, ch. 94, § 25.

4-22-19. Election board - Appointment - Oath - Canvass of election.
Repealed by S.L. 1971, ch. 94, § 25.

4-22-20. Committee to canvass returns and issue certificates of election.
Repealed by S.L. 1971, ch. 94, § 25.

4-22-21. Regular election of district - When held - Regulations governing.
The regular election of soil conservation districts must be held at the same time, and at the same place, as the general election is held. All qualified electors in the district may vote in any regular election of the district. Any land occupier living in the district desiring to be a candidate for the office of supervisor at a district election and who has failed to file a nominating petition may campaign and be elected as a write-in candidate for the office.

4-22-22. Supervisors - Terms of office - Vacancies - Removal - Compensation - Expenses.
At the general election to be held in 1972, three district supervisors must be elected. The candidate receiving the largest number of votes is elected for a six-year term; the candidate receiving the second highest number of votes is elected for a four-year term; and the candidate receiving the third highest number of votes is elected for a two-year term. At each succeeding general election, one supervisor must be elected for a term of six years, or until the successor is duly elected and qualified, to each expiring or vacant term. In newly formed districts, three supervisors must be elected at the first general election following the district's organization. The candidate receiving the largest number of votes is elected for a six-year term; the candidate receiving the second highest number of votes is elected for a four-year term; and the candidate receiving the third highest number of votes is elected for a two-year term. At each succeeding general election, one supervisor must be elected for a term of six years, or until the successor is duly elected and qualified, to each expiring or vacant term. The county auditor of the county or counties in which the district lies shall return to the secretary of state before four p.m. on the tenth day following any general election a certified abstract of the votes cast in the county at the election for each candidate for district supervisor. The secretary of state shall canvass the returns and issue certificates of election under chapter 16.1-15.

In order to be eligible for election to the office of supervisor, candidates must be land occupiers and physically living in the district. Candidates must be elected on a nonpartisan ballot. In case the office of any supervisor, for any reason, becomes vacant, the remaining members of the board of supervisors shall, with the advice and consent of the committee, fill the vacancy by appointment. If vacancies occur in the office of two supervisors, the remaining supervisor and the committee shall fill the vacancy; and in case the offices of all supervisors of a district become vacant, the committee shall fill the vacancies by appointment. A supervisor appointed to fill a vacancy holds office until the next general election. A supervisor elected to fill a vacancy serves the balance of the unexpired term in which the vacancy occurred.

Any soil conservation district, upon resolution of the three elected supervisors, may appoint two additional supervisors who shall serve for a term of one year from and after the date of their appointment. Such supervisors must be appointed by a majority of the three elected supervisors and have all the powers, voting privileges, duties, and responsibilities of elected supervisors, except that the expense allowances of the appointed supervisors must be paid by the local soil conservation district concerned. As far as possible, the appointed supervisors shall represent interests within the district which are not represented by the elected supervisors.

Any supervisor of a soil conservation district may, after notice given and hearing held in accordance with chapter 28-32, be removed from office by the committee.

The supervisors of soil conservation districts are entitled to receive, upon a majority vote of the supervisors, up to sixty-two dollars and fifty cents for attending each regular or special meeting or for attending other meetings or events in the performance of their official duties as compensation for their services. Supervisors of soil conservation districts are entitled to receive travel and subsistence expenses necessarily incurred in attending district, state, or other

meetings. The compensation and all other expenses including travel incurred by district supervisors while transacting district business must be paid from district funds.

4-22-22.1. Additional soil conservation district supervisors.
Repealed by S.L. 1971, ch. 94, § 25.

4-22-22.2. Soil conservation district supervisors - Training.
As soon as practicable after an individual is elected or appointed to the position of a soil conservation district supervisor, the individual shall attend a training session delivered by the state soil conservation committee. An individual who has attended a training session as an elected or as an appointed soil conservation district supervisor may not be required to attend any additional or subsequent session.

4-22-23. Supervisors may employ assistants - Attorney general and state's attorneys to advise - Reports to committee.
The supervisors may employ necessary permanent and temporary officers, agents, or employees, and shall determine their qualifications, duties, and compensation. The supervisors may call upon the attorney general or the state's attorney of any county in which the district is situated for such legal services as they may require. The supervisors may delegate to their chairman or to any of their number such duties as they may deem proper and shall furnish to the committee, upon request, copies of any ordinances, rules, regulations, orders, contracts, or other documents they adopt or employ, and such other information concerning their activities as the committee may require.

4-22-23.1. Assistance for district supervisors.
In those counties of North Dakota wherein all or a substantial part of the county has been created and is operating as a soil conservation district under the provisions of this chapter, as amended, the board of county commissioners may from time to time, in its discretion, and upon the request of the supervisors of such soil conservation district, assign an employee or employees of the county to assist the supervisors in the performance of their duties authorized by this chapter. When soil conservation district boundaries embrace more than one county, the county commissioners of each county may provide, in their discretion, assistance for the supervisors. The duties of the employee or employees are under the direct supervision of the supervisors of the soil conservation district.

4-22-24. Supervisors to provide for surety bonds, keeping records, and annual audit.
The supervisors shall provide for the execution of surety bonds for all employees and officers who are entrusted with funds or property, for the keeping of a full and accurate record of all their proceedings and of all resolutions, regulations, and orders issued or adopted by them, and for an annual audit of the accounts of receipts and disbursements of the district. The surety bonds provided for in this section may be issued by the state bonding fund.

4-22-25. Supervisors may consult representatives of county or municipality.
The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with them on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

4-22-26. Powers and duties of districts and supervisors.
A soil conservation district may exercise the public powers ordinarily exercised by a governmental subdivision of the state, and the district and the supervisors thereof have the following powers in addition to those granted in other sections of this chapter:

1. To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive and control measures needed, and to publish the results of such surveys, investigations, or research, and to disseminate information concerning

such preventive and control measures. To avoid duplication of research activities, no district may initiate any research program except in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies.

2. To conduct demonstrational projects within the district on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district after obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands, to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved and soil erosion in the form of soil blowing and soil washing may be prevented and controlled.
3. To carry out preventive and control measures within the district, including engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land, on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interest in such lands.
4. To cooperate or enter into agreements with, and, within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any occupier of lands within the district in the carrying on of erosion control and prevention operations within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this chapter.
5. To obtain options upon and to acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise any property, real or personal, or any rights or interest therein; to maintain, administer, and improve any properties acquired; to receive income from such properties, and to expend such income in carrying out the purposes and provisions of this chapter; and to sell, lease, or dispose of otherwise any of its property or interest therein in furtherance of the purposes and the provisions of this chapter.
6. To make available, on such terms as it shall prescribe, to land occupiers, government units or qualified electors within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment as will assist such land occupiers, government units or qualified electors to carry on operations upon their lands for the conservation of soil and water resources and for the prevention and control of soil erosion.
7. To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this chapter.
8. To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans must specify in such detail as may be possible the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land, and to publish such plans and information and bring them to the attention of occupiers of lands within the district.
9. To take over, by purchase, lease, or otherwise, and to administer any soil conservation, erosion control, or erosion prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage, as agent of the United States, or any of its agencies or of this state or any of its agencies, any soil conservation, erosion control, or erosion prevention project within its boundaries; to act as agent for the United States or any of its agencies or for this state or any of its agencies in connection with the acquisition, construction, operation, or administration of any soil conservation, erosion control, or erosion prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise from the United States or any

of its agencies or from this state or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations.

10. To sue and be sued in the name of the district.
11. To have a seal, which seal must be noticed judicially.
12. To have perpetual succession unless terminated as hereinafter provided.
13. To make and execute contracts and other instruments necessary or convenient to the exercise of its powers; to borrow funds and pledge all or any part of any income from the district's facilities, equipment, and operations for the repayment thereof.
14. To make, and from time to time, to amend and repeal, rules and regulations not inconsistent with this chapter to carry into effect its purposes and powers.
15. As a condition to the extending of any benefits under this chapter to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, to require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and to require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon.
16. To expend moneys for education, promotion, and recognition activities consistent with the purposes of this chapter.
17. To levy taxes as follows:
    a. The supervisors may make a general fund tax levy, not exceeding two and one-half mills, for the payment of the expenses of the district, including mileage and other expenses of the supervisors, and technical, administrative, clerical, and other operating expenses.
    b. Immediately after the completion of the district budget and the adoption of the annual tax levy by the district supervisors, but not later than July first, the supervisors shall send one certified copy of the levy as adopted to the county auditor of each county in the district.
    c. The county auditor of each county in the district shall extend the levy upon the tax list of the county for the current year against each description of real property lying both within the county and the district in the same manner and with the same effect as other taxes are extended.
    d. The treasurer of each county in the district shall collect all district taxes together with interest and penalty thereon in the same manner as the general taxes are collected, and shall pay over to the soil conservation district by the tenth working day of each month, all taxes so collected during the preceding month, with interest and penalties collected thereon and shall immediately send notification of such payment to the treasurer of the soil conservation district.
    e. Voter-approved levy authority authorized by electors of a district under the provisions of this section before January 1, 2015, remains in effect through taxable year 2024 or for the time period authorized by the electors, whichever expires first.

No provisions with respect to the acquisition, operation, or disposition of property by other public bodies are applicable to a district unless the same specifically are made applicable by law.

4-22-27. Supervisors may formulate land use regulations for submission to qualified electors.

The supervisors of any district may formulate regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling soil erosion, and may conduct public meetings and hearings upon tentative regulations as may be necessary to assist them in this work. The proposed regulations must be embodied in a proposed ordinance for submission to the qualified electors in the district, and copies of the proposed ordinance must be available for inspection by the eligible voters in the district during the period of time between the publication of the notice of referendum upon the ordinance and the date of the referendum.

4-22-28. Notice of referendum - Form of ballot on referendum - Conduct of election - Who may vote.

The notice of referendum on a proposed ordinance must be given in the same manner as is provided in section 4-22-16 relating to notice of election of supervisors, and must recite the contents of the proposed ordinance or must state where copies thereof may be examined. The question of adoption or rejection of the proposed ordinance must be submitted by ballot at an election to be held in the district. The ballot must be in substantially the following form:

Shall proposed ordinance number _____, prescribing land use regulations for conservation of soil and prevention of erosion be adopted?

Yes ☐

No ☐

The supervisors shall supervise the referendum, prepare appropriate regulations governing the conduct thereof, and publish the result of the election. The right to vote in the referendum is limited to qualified electors living within the district. No informalities in the conduct of the referendum or in any matters relating thereto may invalidate the referendum or the result thereof if the notice of referendum has been given substantially as provided in this section and the referendum has been conducted fairly.

4-22-29. Majority required to adopt ordinance - Effect of ordinance after adoption.

No ordinance will be effective unless it is approved by at least two-thirds of the voters voting in the referendum. If a proposed ordinance is approved, the supervisors shall enact it into law. Land use regulations prescribed in any ordinance adopted by the supervisors pursuant to this section have the force and effect of law in the district and are binding and obligatory upon all qualified electors living within the district.

4-22-30. What may be contained in land use regulations.

The land use regulations that may be adopted by the supervisors under the provisions of this chapter may include:

1. Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures.
2. Provisions requiring observance of particular methods of cultivation, including contour cultivating, contour furrowing, lister furrowing, sowing, planting, stripcropping, seeding and planting of lands to water conserving and erosion preventing plants, trees, and grasses, forestation, and reforestation.
3. Specifications of cropping programs and tillage practices to be observed.
4. Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be controlled adequately if cultivation is carried on.
5. Provisions for such other means, measures, operations, and programs as may assist conservation of soil and water resources and prevent or control soil erosion in the district, having due regard to the declaration of policy set forth in section 4-22-01.

4-22-31. Regulations to be uniform - Copies furnished in district.

Land use regulations must be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected but uniform as to all lands within each class or type. Copies of land use regulations adopted under the provisions of this chapter must be printed and made available to all qualified electors living within the district.

4-22-32. Amending, supplementing, or repealing land use regulations.

Any qualified elector living within a district at any time may file a petition with the supervisors asking that any or all of the land use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this chapter be amended, supplemented, or

repealed. Land use regulations prescribed in any such ordinance may not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this chapter for the adoption of land use regulations. Referenda on adoption, amendment, supplementation, or repeal of land use regulations may not be held more than once in any six-month period.

4-22-33. Supervisors to enforce land use regulations.

The supervisors may enter upon any land within the district to determine whether land use regulations adopted under the provisions of this chapter are being observed.

4-22-34. Failure to perform land use regulations - Hearing on - Supervisors to perform - Costs and expenses.

If the supervisors of any district find that any of the provisions of land use regulations prescribed in any ordinance are not being observed on particular lands and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, they may present to the district court a duly verified petition setting forth the adoption of the ordinance prescribing land use regulations, the failure of the defendant land occupier to observe such regulations and to perform particular work, operations, or avoidances as required thereby, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the court to require the defendant to perform the work, operations, or avoidances within a reasonable time and to order that if the defendant fails so to perform, the supervisors may go on the land, perform the necessary work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and may assess the costs and expenses thereof, with interest, to the occupier of such land. Upon the presentation of such petition, the court shall cause process to be issued against the defendant, and shall hear the case. If it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the evidence to the court with the referee's findings of fact and conclusions of law. If a reference is ordered, the report of the referee constitutes a part of the proceedings upon which the determination of the court must be made. The court may dismiss the petition, or it may require the defendant to perform the work, operations, or avoidances, and may provide that upon the failure of the defendant to initiate such performance within the time specified in the order of the court and to prosecute the same to completion with reasonable diligence, the supervisors may enter upon the lands involved and perform the work or operations or otherwise bring the condition of such lands into conformity with the requirements of the regulations, and may assess the costs and expenses thereof, with interest at the rate of five percent per annum, to the occupiers of such lands. If the person in possession of lands failing to perform such work, operations, or avoidances is other than the owner, the owner of such lands must be joined as a party defendant, and in all cases, notice must be given to all other interested parties in person, or by publication in the manner provided in this chapter for publication of due notice. The court shall retain jurisdiction of the case until the work has been completed. Upon completion of such work pursuant to the order of the court, the supervisors may file a petition with the court, a copy of which must be served upon the defendants in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefor, with interest. The court may enter judgment for the amount of such costs and expenses with interest at the rate of five percent per annum until paid. The supervisors may certify to the county auditor of the county in which the district is located the amount of such judgment, which thereafter is a lien upon such lands, and which must be collected as taxes or assessments are collected. When such judgment is paid or collected, the proceeds must be paid over to the district within the boundaries of which the land lies.

4-22-35. Board of adjustment - Members - Appointment - Vacancies - Compensation.

When the supervisors of any district adopt an ordinance prescribing land use regulations, they shall provide by ordinance for the establishment of a board of adjustment to consist of three members, each to be appointed for a term of three years, except the members first

appointed who are appointed for terms of one, two, and three years respectively. The members of each board of adjustment must be appointed by the committee with the advice and approval of the supervisors of the district for which the board has been established, and are removable, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason. A hearing on the removal of a member of a board of adjustment must be conducted jointly by the committee and the supervisors. A vacancy on a board of adjustment must be filled in the same manner as an original appointment is made, and such an appointment is for the unexpired term of the member whose term becomes vacant. Members of the committee and the supervisors of the district are ineligible to appointment as members of the board of adjustment during their tenure of such other office. The members of the board shall receive five dollars a day for the time spent on the work of the board in addition to their expenses, including traveling expenses necessarily incurred in the discharge of their duties. The supervisors shall pay the necessary administrative and other expenses of operation incurred by the board upon the certificate of the chairman of the board.

4-22-36. Board of adjustment - Rules - Chairman - Meetings - Quorum - Records.

The board of adjustment shall adopt rules to govern its procedure, which rules must be in accordance with the provisions of this chapter and any ordinance adopted pursuant to this chapter. The board shall designate a chairman from among its members and may change such designation from time to time. Meetings of the board must be held at the call of the chairman and at such other time as the board may determine. Any two members of the board constitute a quorum. The chairman, or in the chairman's absence such other member of the board as the chairman may designate to serve as acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board are open to the public. The board shall keep a full and accurate record of all its proceedings, of all documents filed with it, and of all orders entered by it, which record must be filed in the office of the board and is a public record.

4-22-37. Petition to board of adjustment to vary land use regulations - Service - Hearing - Board's powers.

Any qualified elector living within the district may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardships in the way of the petitioner strictly complying with the land use regulations prescribed by any ordinance, and praying the board to authorize a variance from the terms of such land use regulations in the application thereof to the lands occupied by the petitioner. Copies of such petition must be served upon the chairman of the supervisors of the district within which the petitioner's lands are located and upon the chairman of the committee. The board shall fix a time for the hearing of the petition and shall cause due notice of such hearing to be given. The petitioner may appear in person, by agent, or by attorney at the hearing and the supervisors and the committee may appear and be heard. If the board determines on the facts presented at the hearing that there are great practical difficulties or unnecessary hardships in the way of applying the strict letter of any of the land use regulations upon the lands of the petitioner, it shall make and record such determination and findings of fact as to the specific conditions which establish such great practical difficulties or unnecessary hardships. Upon such findings and determination, the board may enter an order authorizing a variance from the terms of the land use regulations in their application to the lands of the petitioner consistent with the spirit of the land use regulations, and with substantial justice and the public health, safety, and welfare.

4-22-38. Taking of testimony at hearing.

At the request of the board of supervisors, the testimony at a hearing conducted under the provision of section 4-22-37 must be taken in shorthand, and the party requesting that the testimony be taken shall pay the fees of the shorthand reporter.

4-22-39. Aggrieved petitioner and supervisors may appeal to district court from order of board - Procedure.

Any petitioner, or the supervisors of any district, aggrieved by an order of a board of adjustment granting or denying, in whole or in part, the relief sought in any petition filed with such board may appeal to the district court in accordance with the procedure provided in section 28-34-01. The court may grant such temporary relief as it deems just and proper, and may enter its decree enforcing, modifying and enforcing as modified, or setting aside in whole or in part, the order of the board. The jurisdiction of the court is exclusive, and its judgment and decree is final except that it is subject to review in the same manner as are other judgments or decrees of the court.

4-22-40. Cooperation between district supervisors.

The supervisors of any two or more districts organized under the provisions of this chapter may cooperate with one another in the exercise of any or all powers conferred in this chapter.

4-22-41. State agencies to cooperate with district supervisors.

Agencies of this state having jurisdiction over any state-owned lands, and agencies of any county or other governmental subdivision of this state having jurisdiction over any county-owned or other publicly owned lands lying within the boundaries of any district shall cooperate to the fullest extent with the supervisors of the district in the effectuation of programs and operations undertaken by the supervisors under the provisions of this chapter. The supervisors have free access to enter and perform work upon such publicly owned lands. The provisions of land use regulations adopted pursuant to this chapter have the force and effect of law over all such publicly owned lands and must be in all respects observed by the agencies administering such lands.

4-22-42. Discontinuance of districts - Petition - Referendum - Eligible qualified electors.

After the expiration of five years from the date upon which a district has been organized, twenty-five percent of the qualified electors living within the boundaries thereof may file a petition with the state soil conservation committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee shall then conduct public meetings and hearings upon such petition in order to determine whether or not there is sufficient basis for a referendum to be held. If the committee determines that there is sufficient basis for a referendum, it shall give due notice of the holding of a referendum and shall issue appropriate regulations governing the conduct thereof within sixty days after it has made its determination. The question to be voted on at the referendum must be submitted by ballot in substantially the following form:

Should the (insert name of district) be terminated? Yes ☐
No ☐

All qualified electors within the boundaries of the district are eligible to vote in such referendum. The committee shall supervise the referendum. No informalities in the conduct of such referendum or in any matters relating thereto may invalidate the referendum or the result thereof if notice thereof has been given substantially as herein provided and the referendum has been conducted fairly.

4-22-43. Duties of committee after referendum on discontinuance of the district has been held.

The committee shall publish the result of any referendum on the question of discontinuance of a district immediately after the vote has been had. If a majority of the votes cast in the referendum favored the discontinuance of the district, the committee shall make its certificate that it has determined that the continued operation of the district is not administratively practicable and feasible. If a majority of the votes cast in the referendum favored the continuance of the district, the committee shall consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and

feasible. If the committee determines that the continued operation of the district is administratively practicable and feasible, it shall record such determination and deny the petition for discontinuance, and if it determines that the continued operation thereof is not administratively practicable and feasible, it shall record such determination and certify its determination to the supervisors of the district. In making its determination, the committee shall give due weight and regard to the number and attitudes of the qualified electors living within the district, the number voting in the referendum, the proportion which the votes cast in favor of the discontinuance of the district are of the total number of votes cast, the probable expense of carrying on erosion control operations within the district, and such other economic and social factors as may be relevant to such determination having regard to the legislative policy as set forth in section 4-22-01.

4-22-44. Termination of affairs of district - Disposal of property - Certificate of dissolution.

Upon receipt from the committee of its certification that it has determined that the continued operation of the district is not administratively practicable and feasible, the supervisors shall proceed to terminate the affairs of the district. The supervisors of the district may dispose of all or part of any property belonging to the district at public auction and shall use the proceeds of such sale to pay any liabilities. The balance of any funds and undisposed property becomes the property of the county or counties such district is a part of as directed by the supervisors. The supervisors thereupon shall file an application, duly verified, with the secretary of state for the discontinuance of the district, and shall transmit with such application the certificate of the committee setting forth its determination that the continued operation of the district is not administratively practicable and feasible. The application must recite what property, if any, of the district has been disposed of, the liabilities paid, and the property or proceeds paid over as provided herein and must set forth a full accounting of such properties and the proceeds of the sale thereof. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in the secretary of state's office.

4-22-45. Ordinances, regulations, and contracts of districts after dissolution.

After a certificate of dissolution has been issued as provided in section 4-22-44, all ordinances and regulations theretofore adopted and in force within the dissolved district are of no further force and effect. All contracts theretofore made, to which the district supervisors are parties, remain in force and effect for the period provided in such contracts, and the committee is substituted for the district or supervisors as party to such contracts. The committee is entitled to all the benefits and subject to all the liabilities under such contracts and has the same right as the supervisors of the district would have had.

4-22-46. Petitions for discontinuance of district - Limitation on filing.

The state soil conservation committee may not entertain petitions for the discontinuance of any district, conduct referenda upon such petitions, nor make determinations pursuant to such petitions in accordance with the provisions of this chapter more than once in any five-year period.

4-22-47. Consolidation of districts - Petition - Referendum - Conduct of referendum.

Two or more districts may be consolidated into one district by compliance with this chapter. A petition for consolidation of soil conservation districts must be filed with the state soil conservation committee and must be signed by at least twenty-five qualified electors living in each district. Upon the filing of a petition, the committee by resolution shall fix a date for a referendum to be held in each district and shall direct the supervisors to cause notice of the referendum to be posted in at least five conspicuous places within the district and to be published once each week for two consecutive weeks before the referendum in a newspaper of general circulation in the districts involved. Only qualified electors living within the district are eligible to vote at the referendum. The notice must state the date of the referendum, identify each polling place for holding the referendum, the time when the polls will open and close, and

the question to be submitted to the qualified electors. The notice must be substantially in the following form:

On _____, _____, a referendum will be held at
_____ for the purpose of submitting
(Designate polling place or places)
to the qualified electors within _____ soil conservation
(Name of district)
district the question as to whether _____ soil conservation
(Names of districts)
districts embracing the following townships _____
(Designate townships, by number and range)
shall be consolidated into one soil conservation district.

The ballot must be in the following form:

Shall _____ soil conservation districts embracing the
(Names of districts)
following townships _____ be
(Designate townships, by number and range)
consolidated into one soil conservation district?

Yes _____
No _____

The board of supervisors of the district shall appoint the board of election for each polling place. The board of election must consist of one inspector, one judge, and one clerk. Members of the election board are entitled to receive five dollars for their services.

4-22-48. Conduct of referendum - Canvass of votes.

A referendum upon the question of consolidating two or more soil conservation districts must be conducted in accordance with the laws of the state prescribing the conduct of general elections. After the polls are closed, the board of election shall canvass the votes and the clerk of the board shall certify to the board of supervisors of the clerk's district and to the committee the result of the referendum.

The committee shall publish the result of the referendum. If a majority of the ballots cast on the question in each district are for consolidation, the committee shall file with the secretary of state a statement certifying that the consolidated district has been duly and regularly established.

4-22-49. Supervisors of consolidated district - Terms of office - Powers and duties.

The members of the board of supervisors of a newly consolidated district are the supervisors from each of the districts having been consolidated whose terms of office herein would last expire if such new consolidated district were not established. Such members shall determine by lot the order in which their terms of office in the consolidated district will expire. Where more than three districts are consolidated, the members of the board of supervisors of the consolidated district must be determined by lot among the supervisors from the districts whose terms therein would expire last. Where only two districts are consolidated, the third member of the board of supervisors of the consolidated district must be determined by lot among the remaining supervisors from both such districts. The supervisors thus selected shall hold office until the next general election of the district and until their successors are elected and qualified. Supervisors of a consolidated district have all the powers and duties of supervisors of a soil conservation district as enumerated in this chapter. The name of a consolidated district must be determined by the new supervisors thereof.

4-22-50. Costs and expenses of consolidation - Disposition of property - Contracts of districts after consolidation.

All costs and expenses incidental to the consolidation of two or more districts must be borne equally by each of the districts which have been consolidated. All property and money of the districts which have been consolidated become the property of the newly established district. All

contracts to which the supervisors of each of the districts consolidated are parties remain in force and effect for the period provided in the contracts and the supervisors of the consolidated district are substituted as parties therein. Supervisors of a consolidated district are entitled to all the benefits and subject to all the liabilities under such contracts and have the same rights as the supervisors of the district which entered into such contract or contracts would have had if a consolidated district had not been established.

4-22-51. Soil conservation trust lands.

The state of North Dakota hereby accepts and declares to be held in trust for the soil conservation districts of the state for use in carrying out the soil conservation program those certain tracts or parcels of land lying and being in Burleigh County and more particularly described as follows:

Township one hundred thirty-eight north, range eighty west, fifth principal meridian: west one-half of section fifteen and that portion of the southeast quarter of section sixteen described as follows: beginning at the southeast corner of said section sixteen, thence running north on the east line of said section six hundred sixty feet [201.17 meters]; thence west parallel with the south line of said section two thousand three hundred ten feet [704.09 meters]; thence south six hundred sixty feet [201.17 meters] to a point on the south line of said section two thousand three hundred ten feet [704.09 meters] west of the southeast corner of said section; thence east along the south line of said section two thousand three hundred ten feet [704.09 meters] to the place of beginning; containing thirty-five acres [14.16 hectares], more or less.

Subject, however, to the following rights, easements, exceptions, and reservations:

1. Easements for existing or established roads, highways and public utilities, if any.
2. Right reserved by the Department of the Army "to enter thereon and remove gravel and use the established rubbish disposal area as long as any part of Fort Lincoln Military Reservation is used by the Department of the Army".
3. Reservation to the United States of America and its assigns of an undivided three-fourths interest in all coal, oil, gas, and other minerals, including three-fourths of all sand, gravel, stone, clay and similar materials, in or under such property, together with the usual mining rights, powers, and privileges, including the right at any and all times, to enter upon the land and use such parts of the surface as may be necessary in prospecting for, mining, saving and removing said minerals or materials, provided that such quantities of sand, gravel, stone, clay and similar materials, as may be required, may be utilized in the operation or improvement of the lands.

The lands, having been conveyed to the state of North Dakota by the United States of America for use in carrying out the soil conservation program of the soil conservation districts of the state, are further subject to the condition that they must be used for public purposes and if at any time cease to be so used must revert to and become revested in the United States. Upon approval by the United States of America in accordance with the original grant of the trust lands, the trust lands may be leased, sold, conveyed, traded for, or replaced by other land suitable for the benefit of the soil conservation program in this state. No lease, sale, conveyance, trade, or replacement of the trust lands may be made under conditions that will cause or may cause the reversion of the lands back to the United States of America.

The control, custody, possession, supervision, management, operation, and transfer of the trust lands and any replacement lands is hereby vested in the North Dakota association of soil conservation districts for use in carrying out the soil conservation program of the soil conservation districts of the state and the association in such control, custody, possession, supervision, management, operation, and transfer shall hold all accumulations of personal property or surplus funds derived from said lands in trust for the soil conservation districts of the state for use in carrying out the soil conservation program. Any transfer, sale, trade, or replacement of trust lands is excepted from section 38-09-01, and the North Dakota association of soil conservation districts may transfer all or a portion of the minerals held by the state or the association which are located under the trust lands. Any funds generated through bonuses, leases, royalties, or otherwise generated by minerals reserved by the association or funds generated from the sale of minerals must be held in trust as provided in this section.