

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2029

Introduced by

Legislative Management

(Agriculture and Natural Resources Committee)

1 A BILL for an Act to create and enact chapters 4.1-18, 4.1-20, 4.1-21, 4.1-22, and 4.1-48 of the
2 North Dakota Century Code, relating to revisions of agriculture laws regarding industrial hemp,
3 soil conservation districts laws, forestry and tree distribution, nurseries, and potato production
4 contracts; to amend and reenact section 57-38-34.6 of the North Dakota Century Code, relating
5 to optional contributions to the trees for North Dakota program trust; and to provide a penalty.

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

7 **SECTION 1.** Chapter 4.1-18 of the North Dakota Century Code is created and enacted as
8 follows:

9 **4.1-18-01. Industrial hemp (cannabis sativa l.) - Oilseed.**

10 Industrial hemp (cannabis sativa l.), having no more than three-tenths of one percent
11 tetrahydrocannabinol, is recognized as an oilseed. Upon meeting the requirements of
12 section 4.1-18-02, any person in this state may plant, grow, harvest, possess, process, sell, and
13 buy industrial hemp (cannabis sativa l.) having no more than three-tenths of one percent
14 tetrahydrocannabinol.

15 **4.1-18-02. Industrial hemp - Licensure - Reporting requirements - Continuing**
16 **appropriation.**

- 17 1. Any person desiring to grow or process viable kernels of industrial hemp for
18 commercial purposes or research shall apply to the agriculture commissioner for a
19 license on a form prescribed by the commissioner.
- 20 a. The application for a license must include the name and address of the applicant
21 and the legal description of the land area to be used to produce or process
22 industrial hemp.
- 23 b. Except for employees of the state seed department, the agricultural experiment
24 station, or the North Dakota state university extension service involved in

- 1 research and extension-related activities, the commissioner shall require each
2 applicant for initial licensure to submit to a statewide and nationwide criminal
3 history record check. The nationwide criminal history record check must be
4 conducted in the manner provided in section 12-60-24. All costs associated with
5 the criminal history record check are the responsibility of the applicant.
6 c. Criminal history records provided to the commissioner under this section are
7 confidential. The commissioner may use the records only in determining an
8 applicant's eligibility for licensure.
9 d. Any person with a prior criminal conviction may be denied licensure.
10 e. If the applicant has completed the application process to the satisfaction of the
11 commissioner, the commissioner shall issue the license, which is valid for a
12 period of one year.
13 f. Any person licensed under this section is presumed to be growing or processing
14 industrial hemp for commercial purposes or research.
15 g. A license required by this section is not conditioned on or subject to review or
16 approval by the United States drug enforcement agency.
17 h. This subsection does not apply to any person licensed by the United States drug
18 enforcement agency to conduct research.
19 i. An application for a license under this subsection may be filed with the
20 commissioner at any time.
21 2. a. Each licensee must file with the commissioner documentation indicating that the
22 seeds planted were of a type and variety certified to have no more than
23 three-tenths of one percent tetrahydrocannabinol and a copy of any contract to
24 grow industrial hemp.
25 b. Each licensee shall notify the commissioner of the sale or distribution of any
26 industrial hemp grown by the licensee, and the names of the persons to whom
27 the hemp was sold or distributed.
28 3. The commissioner shall adopt rules to provide for oversight of the industrial hemp
29 during growth, harvest, and processing and to allow the industrial hemp to be tested
30 during growth for tetrahydrocannabinol levels ~~and to allow for supervision of the~~
31 ~~industrial hemp during its growing, harvesting, and processing.~~

1 4. ~~To provide sufficient funds to pay costs associated with monitoring and testing~~
2 ~~industrial hemp in the state, the~~The commissioner shall assess each applicant a fee of
3 ~~fiveone hundred fifty dollars plus twenty-five dollars per acre. The minimum fee~~
4 ~~assessed must be one hundred fifty dollars per applicant. Collections from this fee~~
5 ~~must be deposited in the commissioner's operating fund and are appropriated to the~~
6 ~~commissioner to be used to enforce this chapter.~~

7 5. Fees collected under this chapter must be deposited in the commissioner's operating
8 fund and are appropriated to the department on a continuing basis for the purpose of
9 enforcing this chapter.

10 **4.1-18-03. Industrial hemp seed - Authorized activity - Research.**

11 The agriculture commissioner, North Dakota state university, and any other person licensed
12 under this chapter may import, resell, and plant industrial hemp seed, cultivate the growing
13 plant, and harvest any resulting crop, for any legally permissible purpose, including an
14 authorized pilot program or other agricultural research involving the planting, cultivating, or
15 marketing of industrial hemp.

16 **SECTION 2.** Chapter 4.1-20 of the North Dakota Century Code is created and enacted as
17 follows:

18 **4.1-20-01. Policy and scope of chapter.**

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

25 **4.1-20-02. Definitions.**

26 In this chapter, unless the context otherwise requires:

- 27 1. "Committee" means the state soil conservation committee.
28 2. "Director" means the director of the North Dakota state university extension service.
29 3. "District" means a political subdivision of this state organized as a soil conservation
30 district under this chapter.

- 1 4. "Due notice" means notice published at least twice, with at least seven days between
2 publications, in a newspaper or other publication of general circulation within the
3 appropriate area.
- 4 5. "Government" includes the government of this state, the government of the United
5 States, and any subdivision, agency, or instrumentality, corporate or otherwise, of
6 either of them.
- 7 6. "Land occupier" includes any person that holds title to or is in possession of any lands
8 lying within a district.
- 9 7. "Qualified elector" means an individual who is at least eighteen years old, is a citizen
10 of the United States, and has resided in the precinct thirty days next preceding the
11 election.
- 12 8. "Supervisor" means one of the members of the governing body of a district, elected or
13 appointed in accordance with this chapter.

14 **4.1-20-03. State soil conservation committee - Elective and appointive members -**

15 **Records and seal.**

- 16 1. The committee shall perform the functions conferred upon it in this chapter within the
17 limits of legislative appropriations. The committee consists of seven voting members.
18 Five members must be elected and two must be appointed by the governor.
- 19 2. For the purpose of electing the five elective members of the committee, the state is
20 divided into five areas.
- 21 a. (1) Area I includes Benson, Cavalier, Eddy, Foster, Grand Forks, Nelson,
22 Pembina, Ramsey, Towner, Walsh, and Wells Counties.
- 23 (2) Area II includes Barnes, Cass, Dickey, Griggs, LaMoure, Ransom, Richland,
24 Sargent, Steele, and Traill Counties.
- 25 (3) Area III includes Bottineau, Burke, Divide, McHenry, Mountrail, Pierce,
26 Renville, Rolette, and Ward Counties.
- 27 (4) Area IV includes Burleigh, Emmons, Kidder, Logan, McIntosh, McLean,
28 Morton, Oliver, Sheridan, Sioux, and Stutsman Counties.
- 29 (5) Area V includes Adams, Billings, Bowman, Dunn, Golden Valley, Grant,
30 Hettinger, McKenzie, Mercer, Stark, Slope, and Williams Counties.

- 1 b. One member of the committee must be elected from each of the five areas by
2 vote of the members of the boards of supervisors of the districts in that area.
3 Every voting member of a board of supervisors of a district organized under this
4 chapter is eligible to vote in the election for a member of the committee in the
5 area in which the district is located.
- 6 c. Elections must be held under rules adopted by the committee and in cooperation
7 with and at the time of the North Dakota association of soil conservation districts
8 area meetings. If the district does not lie wholly within the boundaries of one of
9 the five areas established under this section, the rules must provide for the
10 assignment of the district by the committee, for the purposes of the elections, to
11 the area within which most of its population resides.
- 12 d. The committee shall conduct the election of members of the committee. The
13 election need not be held on the same dates or in the same places as the
14 general elections for state or local officers.
- 15 3. The governor shall appoint two members of the committee. The governor shall appoint
16 individuals who can represent those interests within the state not already represented,
17 or less fully represented, by one or more of the five elected members of the
18 committee. The governor shall attempt, so far as feasible, to make possible suitable
19 representation for all interests in the state in the membership of the committee,
20 including the interests of farmers, livestock growers, rural areas, small and large cities,
21 and industry and business, recognizing that any single member of the committee may
22 sometimes appropriately be regarded as representing more than one of these
23 interests.
- 24 4. The committee shall invite representatives of the state association of soil conservation
25 districts, North Dakota state university extension service, soil conservation service,
26 state water commission, agriculture commissioner, and game and fish department to
27 serve as advisory, nonvoting members of the committee.
- 28 5. The term of office of every member of the committee is three years and until a
29 successor is elected or appointed. A member of the committee is eligible for reelection
30 and reappointment, but no member may serve for more than two full, successive

1 terms. The governor may fill a vacancy in either an elective or appointive term for the
2 unexpired term.

3 **4.1-20-04. Committee - Chairman - Quorum - Compensation.**

4 The committee shall meet annually and select its chairman, who shall serve until a
5 successor is selected and takes office. An individual may be selected as chairman for a total of
6 three terms. Additional meetings may be held by the committee as considered necessary by the
7 chairman, at a time and place to be fixed by the chairman. The chairman shall call special
8 meetings upon written request of any four members. The members of the committee are entitled
9 to receive one hundred thirty-five dollars per day as compensation for their services on the
10 committee, and are entitled to expenses, including traveling expenses, necessarily incurred in
11 the discharge of their duties on the committee, in the same manner and at the same rate as
12 prescribed by law for state employees and officials.

13 **4.1-20-05. Duties and powers generally.**

14 The committee has the following duties and powers:

- 15 1. To offer such assistance as may be appropriate to the supervisors of districts in the
16 carrying out of any of their powers and programs.
- 17 2. To keep the supervisors of each of the several districts informed of the activities and
18 experience of all other districts, and to facilitate an interchange of advice and
19 experience among such districts and cooperation among them.
- 20 3. To secure the cooperation and assistance of state, federal, regional, interstate, and
21 local, public, and private agencies with districts and to facilitate arrangements under
22 which districts may assist or serve county governing bodies and other agencies in the
23 administration of any activity concerned with the conservation of natural resources.
- 24 4. To review agreements, or forms of agreements, proposed to be entered into by
25 districts with other districts or with state, federal, interstate, or other public or private
26 organizations, and advise the districts concerning such agreements or forms of
27 agreement.
- 28 5. To recommend to the director biennial budgets necessary to finance the activities of
29 the committee and districts and to distribute moneys appropriated by the legislative
30 assembly for grants to soil conservation districts.
- 31 6. To represent the state in matters affecting soil conservation.

- 1 7. To require annual reports from districts.
- 2 8. To establish uniform accounting methods that must be used by districts, and to
- 3 establish a uniform auditing reporting system.
- 4 9. To receive from other state and local agencies for review and comment suitable
- 5 descriptions of their plans, programs, and activities affecting the conservation of
- 6 natural resources for purposes of coordination with district conservation programs;
- 7 arrange for and participate in conferences necessary to avoid conflict among such
- 8 plans and programs; call attention to omissions; and avoid duplication of effort.

9 **4.1-20-06. Extension service assistance to state soil conservation committee - Duties.**

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

13 **4.1-20-07. Districts - Petition - Contents - More than one petition filed.**

- 14 1. Any twenty-five qualified electors living within the limits of the area proposed to be
- 15 organized into a district may file a petition with the state soil conservation committee
- 16 asking that a soil conservation district be organized in the area described in the
- 17 petition. The petition must set forth:
 - 18 a. The proposed name of the district.
 - 19 b. The need for a soil conservation district to function in the area described in the
 - 20 petition.
 - 21 c. A description of the area proposed to be organized as a district.
 - 22 d. A request that the state soil conservation committee duly define the boundaries
 - 23 for the district, that an election be held within the defined area on the question of
 - 24 the creation of a soil conservation district in that area, and that the committee
 - 25 determine that such a district be created.

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

28 **4.1-20-08. Hearings on petitions - When held - Notice - Determinations.**

- 29 1. Within thirty days after a petition under section 4.1-20-07 has been filed, the state soil
- 30 conservation committee shall cause publication of due notice of a hearing on the
- 31 desirability of creation of a soil conservation district, the appropriate boundaries to be

1 assigned to the district, the propriety of the petition and the other proceedings taken
2 under this chapter, and upon all other relevant questions. All qualified electors living
3 within the area described in the petition, and of lands within any area considered for
4 addition to the area described in the petition, and all other interested parties have the
5 right to attend and be heard at the hearing. If it appears at the hearing that it may be
6 desirable to include within the proposed district additional area outside of the area
7 within which due notice of hearing has been given, the hearing must be adjourned and
8 due notice of further hearing must be given throughout the entire area considered for
9 inclusion in the district, and further hearing must be held.

10 2. If the committee determines, upon the facts presented at the hearing and upon other
11 available relevant facts and information, there is need, in the public interest, for a soil
12 conservation district to function in the area considered at the hearing, the committee
13 shall record that determination and define the district boundaries by metes and bounds
14 or legal subdivisions. In making the determination and defining the boundaries, the
15 committee shall give due weight and consideration to:

16 a. The topography of the area considered and of the state;

17 b. The composition of soils, distribution of erosion, prevailing land use practices,
18 and desirability and necessity of including within the boundaries the area under
19 consideration;

20 c. The benefits the area may receive from being included within such boundaries;

21 d. The relation of the proposed area to existing watersheds and agricultural regions,
22 and to other soil conservation districts already organized or proposed for
23 organization under this chapter; and

24 e. Any other relevant physical, geographic, and economic factors, having due
25 regard to the legislative policy set forth in section 4.1-20-01.

26 3. If the committee determines, after the hearing and due consideration of the relevant
27 facts, there is no need for a soil conservation district to function in the area considered
28 at the hearing, the committee shall record that determination and deny the petition.
29 After six months has expired from the date of the denial of that petition, a subsequent
30 petition covering the same or substantially the same area may be filed and a new
31 hearing held and new determinations made.

1 **4.1-20-09. Election - When held - Contents of ballot - Who may vote.**

2 After the committee has determined the necessity for the organization of a district and has
3 defined the boundaries of the proposed district, the committee shall hold an election within the
4 proposed district upon the creation of the proposed district and shall cause due notice of the
5 election to be given. The question must be submitted by ballot in substantially the following
6 form:

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

9 _____ Yes

10 _____ No

11 All qualified electors residing within the boundaries of the proposed district are entitled to vote in
12 the election.

13 **4.1-20-10. Publication of election results - Determination of feasibility of operation of**
14 **district.**

15 The committee shall publish the results of any election. If a majority of the votes cast are in
16 favor of the creation of a district, the committee shall determine whether the operation of a
17 district within the boundaries specified on the election is administratively feasible. In making that
18 determination, the committee shall consider such factors, objects, and other determinations as
19 to accomplish the policy and scope of this chapter as set forth in section 4.1-20-01.

20 **4.1-20-11. District determined feasible - Statement filed with secretary of state.**

21 If the committee determines the operation of a proposed district is administratively feasible,
22 the committee shall file with the secretary of state a certified statement identifying the
23 boundaries and name of that district. The statement must include the reasons for the formation
24 of the district and the result of the election.

25 **4.1-20-12. District to be a political subdivision - Boundaries of district.**

26 Upon the certification by the committee to the secretary of state under section 4.1-20-11,
27 the district becomes a political subdivision of the state and a body corporate and politic. The
28 secretary of state shall issue to the committee a certificate of the due organization of the district
29 under the seal of the state and record the certificate with the application and statement. The
30 boundaries of the district include the area as determined by the committee, but may not include
31 any area included within the boundaries of another soil conservation district.

1 **4.1-20-13. Petition to include additional area within existing district.**

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

8 **4.1-20-14. Districts presumed to be organized legally - Copy of certificates as**
9 **evidence.**

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

16 **4.1-20-15. Notice to file nominating petitions and of election of district supervisors.**

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

22 **4.1-20-16. Nominating petitions - Petitions required - Final filing date.**

23 Any individual running for the office of supervisor shall present to the county auditor of the
24 county in which the district lies a petition giving that individual's name and mailing address and
25 the title and term of the office, and containing the signatures of not less than twenty-five nor
26 more than three hundred qualified electors of the district. When a district lies in more than one
27 county, the petition must be filed with the county auditor of the county where the candidate
28 resides, and that county auditor shall certify to the county auditors of the other counties in which
29 the district lies the name and mailing address of the candidate filing such petition. At the same
30 time, the county auditor, or auditors in the case of multicounty districts, also shall certify to the
31 secretary of state the name and mailing address of each individual filing a nominating petition.

1 according to this section. An individual may not participate directly or indirectly in the nomination
2 for more than one individual for each office to be filled. The final filing date for nominating
3 petitions is no later than four p.m. sixty-four days before the day of the election.

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

7 **4-1-20-17. Regular election of district - When held - Regulations governing.**

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

13 **4.1-20-18. Supervisors - Terms of office - Vacancies - Removal - Compensation -**
14 **Expenses.**

15 1. At each general election, one district supervisor must be elected for a term of six
16 years, or until the successor is duly elected and qualified, to each expiring or vacant
17 term. The county auditor of the county or counties in which the district lies shall return
18 to the secretary of state before four p.m. on the tenth day following any general
19 election a certified abstract of the votes cast in the county at the election for each
20 candidate for district supervisor. The secretary of state shall canvass the returns and
21 issue certificates of election under chapter 16.1-15.

22 2. To be eligible for election to the office of district supervisor, candidates must be land
23 occupiers and physically living in the district. Candidates must be elected on a
24 nonpartisan ballot. If the office of any supervisor becomes vacant, the remaining
25 members of the board of supervisors, with the advice and consent of the committee,
26 shall fill the vacancy by appointment. If vacancies occur in the office of two
27 supervisors, the remaining supervisor and the committee shall fill the vacancy. If the
28 offices of all supervisors of a district become vacant, the committee shall fill the
29 vacancies by appointment. A supervisor appointed to fill a vacancy holds office until
30 the next general election. A supervisor elected to fill a vacancy serves the balance of
31 the unexpired term in which the vacancy occurred.

1 3. Upon resolution of the three elected supervisors, a soil conservation district, may
2 appoint two additional supervisors who shall serve for a term of one year from the date
3 of appointment. Those supervisors must be appointed by a majority of the three
4 elected supervisors and have all the powers, voting privileges, duties, and
5 responsibilities of elected supervisors, except that the expense allowances of the
6 appointed supervisors must be paid by the local soil conservation district concerned.
7 As far as possible, the appointed supervisors shall represent interests within the
8 district which are not represented by the elected supervisors.

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

11 5. Upon a majority vote of the supervisors, the supervisors of a soil conservation district
12 are entitled to receive compensation of up to sixty-two dollars and fifty cents for
13 attending each regular or special meeting or for attending other meetings or events in
14 the performance of their official duties. Supervisors of soil conservation districts are
15 entitled to receive travel and subsistence expenses necessarily incurred in attending
16 district, state, or other meetings. The compensation and all other expenses including
17 travel incurred by district supervisors while transacting district business must be paid
18 from district funds.

19 **4.1-20-19. Soil conservation district supervisors - Training.**

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

25 **4.1-20-20. Supervisors may employ assistants - Attorney general and state's**
26 **attorneys to advise - Reports to committee.**

27 The supervisors may employ necessary permanent and temporary officers, agents, or
28 employees, and shall determine their qualifications, duties, and compensation. The supervisors
29 may call upon the attorney general or the state's attorney of any county in which the district is
30 situated for those legal services as the supervisors may require. The supervisors may delegate
31 to their chairman or to any of their number such duties as they may deem proper and shall

1 furnish to the committee, upon request, copies of any ordinances, rules, regulations, orders,
2 contracts, or other documents the supervisors adopt or employ, and any other information
3 concerning their activities as the committee may require.

4 **4.1-20-21. Assistance for district supervisors.**

5 Upon request of the supervisors of a soil conservation district, a board of county
6 commissioners may assign an employee or employees of the county to assist the supervisors in
7 the performance of the supervisors' duties authorized by this chapter. The board of county
8 commissioners of each county within a soil conservation district may provide assistance for the
9 supervisors. The duties of the employee or employees are under the direct supervision of the
10 supervisors of the soil conservation district.

11 **4.1-20-22. Supervisors to provide for surety bonds, keeping records, and annual**
12 **audit.**

13 The supervisors shall provide for the execution of surety bonds for all employees and
14 officers who are entrusted with funds or property of the district, for the keeping of a full and
15 accurate record of all the supervisors' proceedings and of all resolutions, regulations, and
16 orders issued or adopted by the supervisors, and for an annual audit of the accounts of receipts
17 and disbursements of the district. The surety bonds provided for in this section may be issued
18 by the state bonding fund.

19 **4.1-20-23. Supervisors may consult city or county representatives.**

20 The supervisors may invite the governing body of any city or county located within or near
21 the district to designate a representative to advise and consult with the supervisors on issues
22 that may affect the property, water supply, or other interests of the city or county.

23 **4.1-20-24. Powers and duties of districts and supervisors.**

- 24 1. A soil conservation district may exercise the public powers ordinarily exercised by a
25 political subdivision of the state, and the district and the supervisors of the district have
26 the following powers in addition to those granted in other sections of this chapter:
27 a. To conduct surveys, investigations, and research relating to the character of soil
28 erosion and the preventive and control measures needed; to publish the results
29 of those surveys, investigations, or research; and to disseminate information
30 concerning the preventive and control measures. To avoid duplication of research
31 activities, a district may not initiate any research program except in cooperation

1 with the government of this state or any of its agencies, or with the United States
2 or any of its agencies.

3 b. To conduct demonstrational projects within the district on lands owned or
4 controlled by this state or any of its agencies, with the cooperation of the agency
5 administering and having jurisdiction of the land, and on any other lands within
6 the district after obtaining the consent of the occupier of those lands or the
7 necessary rights or interests in those lands, to demonstrate by example the
8 means, methods, and measures by which soil and soil resources may be
9 conserved and soil erosion in the form of soil blowing and soil washing may be
10 prevented and controlled.

11 c. To carry out preventive and control measures within the district, including
12 engineering operations, methods of cultivation, the growing of vegetation, and
13 changes in use of land, on lands owned or controlled by this state or any of its
14 agencies, with the cooperation of the agency administering and having
15 jurisdiction of the land, and on any other lands within the district upon obtaining
16 the consent of the occupier of those lands or the necessary rights or interest in
17 those lands.

18 d. To cooperate or enter agreements with, and, within the limits of appropriations
19 duly made available to it by law, to furnish financial or other aid to any agency,
20 governmental or otherwise, or any occupier of lands within the district in the
21 carrying on of erosion control and prevention operations within the district,
22 subject to the conditions as the supervisors may deem necessary to advance the
23 purposes of this chapter.

24 e. To obtain options upon and to acquire by purchase, exchange, lease, gift, grant,
25 bequest, devise, or otherwise any property, real or personal, or any property
26 rights or interest; to maintain, administer, and improve any properties acquired; to
27 receive income from those properties and to expend that income in carrying out
28 the purposes and provisions of this chapter; and to sell, lease, or dispose of
29 otherwise any of its property or interest therein in furtherance of the purposes
30 and the provisions of this chapter.

- 1 f. To make available, on terms the soil conservation district prescribes, to land
2 occupiers, government units or qualified electors within the district, agricultural
3 and engineering machinery and equipment, fertilizer, seeds and seedlings, and
4 any other material or equipment as will assist those land occupiers, government
5 units or qualified electors to carry on operations upon their lands for the
6 conservation of soil and water resources and for the prevention and control of soil
7 erosion.
- 8 g. To construct, improve, and maintain structures as may be necessary or
9 convenient for the performance of any of the operations authorized in this
10 chapter.
- 11 h. To develop comprehensive plans for the conservation of soil resources and for
12 the control and prevention of soil erosion within the district, which plans must
13 specify in such detail as may be possible the acts, procedures, performances,
14 and avoidances that are necessary or desirable for the effectuation of those
15 plans, including the specification of engineering operations, methods of
16 cultivation, the growing of vegetation, cropping programs, tillage practices, and
17 changes in use of land, and to publish such plans and information and bring them
18 to the attention of occupiers of lands within the district.
- 19 i. To take over, by purchase, lease, or otherwise, and to administer any soil
20 conservation, erosion control, or erosion prevention project located within its
21 boundaries undertaken by the United States or any of its agencies, or by this
22 state or any of its agencies; to manage, as agent of the United States, or any of
23 its agencies or of this state or any of its agencies, any soil conservation, erosion
24 control, or erosion prevention project within its boundaries; to act as agent for the
25 United States or any of its agencies or for this state or any of its agencies in
26 connection with the acquisition, construction, operation, or administration of any
27 soil conservation, erosion control, or erosion prevention project within its
28 boundaries; to accept donations, gifts, and contributions in money, services,
29 materials, or otherwise from the United States or any of its agencies or from this
30 state or any of its agencies, and to use or expend those moneys, services,
31 materials, or other contributions in carrying on its operations.

- 1 j. To sue and be sued in the name of the district.
- 2 k. To have a seal, which seal must be noticed judicially.
- 3 l. To have perpetual succession unless terminated as provided in this chapter.
- 4 m. To make and execute contracts and other instruments necessary or convenient to
5 the exercise of its powers; to borrow funds and pledge all or any part of any
6 income from the district's facilities, equipment, and operations for repayment.
- 7 n. To make, amend, or repeal regulations consistent with this chapter.
- 8 o. To require contributions in money, services, materials, or otherwise to any
9 operations conferring benefits under this chapter and to require land occupiers to
10 enter and perform agreements or covenants to use the lands in a manner that will
11 prevent or control erosion.
- 12 p. To expend moneys for education, promotion, and recognition activities consistent
13 with the purposes of this chapter.
- 14 q. To levy taxes as follows:
- 15 (1) The supervisors may make a general fund tax levy, not exceeding two and
16 one-half mills, for the payment of the expenses of the district, including
17 mileage and other expenses of the supervisors, and technical,
18 administrative, clerical, and other operating expenses.
- 19 (2) Immediately after the completion of the district budget and the adoption of
20 the annual tax levy by the district supervisors, but not later than July first,
21 the supervisors shall send one certified copy of the levy as adopted to the
22 county auditor of each county in the district.
- 23 (3) The county auditor of each county in the district shall extend the levy upon
24 the tax list of the county for the current year against each description of real
25 property lying both within the county and the district in the same manner
26 and with the same effect as other taxes are extended.
- 27 (4) The treasurer of each county in the district shall collect all district taxes
28 together with interest and penalty thereon in the same manner as the
29 general taxes are collected, and shall pay over to the soil conservation
30 district by the tenth working day of each month, all taxes so collected during
31 the preceding month, with interest and penalties collected thereon and shall

1 immediately send notification of such payment to the treasurer of the soil
2 conservation district.

3 (5) Voter-approved levy authority authorized by electors of a district under the
4 provisions of this section before January 1, 2015, remains in effect through
5 taxable year 2024 or for the time period authorized by the electors,
6 whichever expires first.

7 2. Any provisions with respect to the acquisition, operation, or disposition of property by
8 other public bodies are not applicable to a district unless the same specifically are
9 made applicable by law.

10 **4.1-20-25. Supervisors may formulate land use regulations for submission to**
11 **qualified electors.**

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

20 **4.1-20-26. Notice of election - Form of ballot - Conduct of election - Who may vote.**

21 The notice of election on a proposed ordinance submitted to the qualified electors in the
22 district under section 4.1-20-24 must be provided in the manner required by section 4.1-20-14
23 relating to notice of election of supervisors, and must recite the contents of the proposed
24 ordinance or must state where copies of the proposed ordinance may be examined. The
25 question of adoption or rejection of the proposed ordinance must be submitted by ballot at an
26 election to be held in the district. The ballot must be in substantially the following form:

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

29 Yes _____

30 No _____

1 The supervisors shall supervise the election, prepare appropriate regulations governing the
2 conduct of the election, and publish the result of the election. The right to vote in the election is
3 limited to qualified electors residing within the district. No informalities in the conduct of the
4 election or in any matters relating to the election may invalidate the election or its result if the
5 notice of election has been given substantially as required by this section and the election has
6 been fairly conducted.

7 **4.1-20-27. Two-thirds voter approval required to adopt ordinance - Effect of ordinance**
8 **after adoption.**

9 An ordinance under this chapter does not become effective unless it is approved by at least
10 two-thirds of the qualified electors voting on the question. If a proposed ordinance is approved,
11 the supervisors shall enact it into law. Land use regulations prescribed in any ordinance
12 adopted by the supervisors pursuant to this section have the force and effect of law in the
13 district and are binding and obligatory upon all qualified electors living within the district.

14 **4.1-20-28. What may be contained in land use regulations.**

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

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

1 **4.1-20-29. Regulations to be uniform - Copies furnished in district.**

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

8 **4.1-20-30. Amending, supplementing, or repealing land use regulations.**

9 Any qualified elector living within a district at any time may file a petition with the
10 supervisors asking that any or all of the land use regulations in any ordinance adopted by the
11 supervisors under this chapter be amended, supplemented, or repealed. Land use regulations
12 in that ordinance may not be amended, supplemented, or repealed except in accordance with
13 the procedure prescribed in this chapter for the adoption of land use regulations. Elections on
14 adoption, amendment, supplementation, or repeal of land use regulations may not be held more
15 than once in any six-month period.

16 **4.1-20-31. Supervisors to enforce land use regulations.**

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

19 **4.1-20-32. Failure to perform land use regulations - Hearing on - Supervisors to**
20 **perform - Costs and expenses.**

- 21 1. If the supervisors of any district find any land use regulations prescribed in any
22 ordinance are not being observed on particular lands, tending to increase erosion on
23 those lands and interfering with the prevention or control of erosion on other lands
24 within the district, the supervisors may present to the district court a duly verified
25 petition setting forth:
- 26 a. The adoption of the ordinance prescribing land use regulations;
 - 27 b. The alleged failure of the defendant land occupier to observe the regulations and
28 perform particular work, operations, or avoidances required by the regulations
29 and that the failure tends to increase erosion on those lands and interfere with
30 the prevention or control of erosion on other lands within the district; and

- 1 c. Requesting that the court order the defendant to perform the work, operations, or
2 avoidances within a reasonable time and that if the defendant fails to do so, the
3 supervisors may:
4 (1) Enter upon the land;
5 (2) Perform the necessary work to bring the condition of the land into conformity
6 with the regulations; and
7 (3) Assess the costs and expenses of the work, with interest, to the defendant.
8 2. Upon presentation of a petition under subsection 1, the court shall cause process to
9 be issued against the defendant, and shall hear the case.
10 a. If it appears to the court testimony is necessary for the proper disposition of the
11 matter, the court may take evidence or appoint a referee to take evidence as it
12 may direct and report the evidence to the court with the referee's findings of fact
13 and conclusions of law.
14 b. If a referee is appointed, the report of the referee constitutes a part of the
15 proceedings upon which the determination of the court must be made.
16 c. The court may dismiss the petition or it may order the defendant to perform the
17 work, operations, or avoidances. The court may provide upon the failure of the
18 defendant to initiate performance as ordered by the court within the time
19 specified in the order of the court and to prosecute the same to completion with
20 reasonable diligence, the supervisors may enter upon the lands involved and
21 perform the necessary work to bring the condition of the land into conformity with
22 the regulations and assess the costs and expenses of the work, with interest at
23 the rate of five percent per annum, to the defendant.
24 d. If the person in possession of lands subject to a petition under subsection 1 is
25 other than the owner, the owner of those lands must be joined as a party
26 defendant. In all cases, notice must be given to all other interested parties in
27 person, or by publication in the manner provided in this chapter for publication of
28 due notice.
29 e. In any case under this section, the court shall retain jurisdiction until any work
30 ordered by the court has been completed.

1 3. Upon completion of any work ordered by the court under subsection 2, the supervisors
2 may file a petition with the court and serve a copy upon the defendants, stating the
3 costs and expenses sustained by the supervisors in the performance of the work and
4 asking for judgment in that amount, with interest. The court may enter judgment for the
5 amount of costs and expenses approved by the court plus interest at the rate of five
6 percent per annum until paid. The supervisors may certify to the county auditor of the
7 county in which the district is located the amount of the judgment, which is a lien upon
8 the lands and must be collected as taxes or assessments are collected. As the
9 judgment is paid or collected, the proceeds must be paid over to the district that
10 certified the judgment to the auditor.

11 **4.1-20-33. Board of adjustment - Members - Appointment - Vacancies -**

12 **Compensation.**

13 When the supervisors of any district adopt an ordinance prescribing land use regulations,
14 the supervisors shall provide by ordinance for the establishment of a board of adjustment to
15 consist of three members, each to be appointed for a term of three years, except the members
16 first appointed who are appointed for terms of one, two, and three years respectively. The
17 members of each board of adjustment must be appointed by the committee with the advice and
18 approval of the supervisors of the district for which the board has been established, and are
19 removable, upon notice and hearing, for neglect of duty or malfeasance in office, but for no
20 other reason. A hearing on the removal of a member of a board of adjustment must be
21 conducted jointly by the committee and the supervisors. A vacancy on a board of adjustment
22 must be filled in the same manner as the original appointment except the appointment is for the
23 unexpired vacant term. Members of the committee and the supervisors of the district may not
24 serve as members of the board of adjustment. The members of the board shall receive five
25 dollars a day for the time spent on the work of the board in addition to their expenses, including
26 traveling expenses necessarily incurred in the discharge of their duties. The supervisors shall
27 pay the necessary administrative and other expenses of operation incurred by the board upon
28 the certificate of the chairman of the board.

29 **4.1-20-34. Board of adjustment - Rules - Chairman - Meetings - Quorum - Records.**

30 The board of adjustment shall adopt rules to govern its procedure, in accordance with this
31 chapter and any ordinance adopted under this chapter. The board shall designate, and may

1 replace at any time, a chairman from among its members. Meetings of the board must be held
2 at the call of the chairman and at any other time as the board may determine. Any two members
3 of the board constitute a quorum. The chairman, or another member of the board designated by
4 the chairman to serve as acting chairman, may administer oaths and compel the attendance of
5 witnesses. All meetings of the board are open to the public. The board shall keep a full and
6 accurate record of its proceedings, all documents filed with it, and all orders entered by the
7 board. The record must be filed in the office of the board and is a public record.

8 **4.1-20-35. Petition to board of adjustment to vary land use regulations - Service -**
9 **Hearing - Board's powers.**

10 Any qualified elector residing in the district may file a petition with the board of adjustment
11 seeking a variance from strictly complying with the land use regulations. Copies of a petition
12 must be served upon the chairman of the supervisors of the district where the lands are located
13 and upon the chairman of the committee. The board shall fix a time for the hearing of the
14 petition and cause due notice of the hearing to be given. The petitioner may appear in person,
15 by agent, or by attorney at the hearing and the supervisors and the committee may appear and
16 be heard. If the board determines on the facts presented at the hearing that there are great
17 practical difficulties or unnecessary hardships in the way of applying the strict letter of any of the
18 land use regulations upon the lands of the petitioner, the board shall make and record the
19 determination and findings of fact as to the specific conditions that establish the great practical
20 difficulties or unnecessary hardships. Upon the findings and determination, the board may enter
21 an order authorizing a variance from the terms of the land use regulations in its application to
22 the lands of the petitioner consistent with the spirit of the land use regulations, and with
23 substantial justice and the public health, safety, and welfare.

24 **4.1-20-36. Taking of testimony at hearing.**

25 At the request of the board of supervisors, the testimony at a hearing conducted under
26 section 4.1-20-35 must be taken by a court reporter, by a stenographer, or by use of an
27 electronic recording device. The board of supervisors is responsible for the cost of taking
28 testimony.

1 or in any matters relating to the election do not invalidate the election or its result if notice of the
2 election has been given substantially as required by this chapter and the election has been
3 fairly conducted.

4 **4.1-20-41. Duties of committee after election on discontinuance of the district has**
5 **been held.**

6 The committee shall publish the result of any election on the question of discontinuance of a
7 district immediately after the vote has been had. If a majority of the votes cast in the election
8 favored the discontinuance of the district, the committee shall make its certificate that it has
9 determined that the continued operation of the district is not administratively feasible. If a
10 majority of the votes cast in the referendum favored the continuance of the district, the
11 committee shall consider and determine whether the continued operation of the district within
12 the defined boundaries is administratively feasible. If the committee determines the continued
13 operation of the district is administratively feasible, the committee shall record that
14 determination and deny the petition for discontinuance, and if the committee determines the
15 continued operation thereof is not administratively feasible, the committee shall record the
16 determination and certify its determination to the supervisors of the district. In making its
17 determination, the committee shall give due weight and regard to the number and attitudes of
18 the qualified electors residing within the district, the number voting in the referendum, the
19 proportion that the votes cast in favor of the discontinuance of the district are of the total
20 number of votes cast, the probable expense of carrying on erosion control operations within the
21 district, and any other economic and social factors as may be relevant to the determination
22 having regard to the legislative policy as set forth in this chapter.

23 **4.1-20-42. Termination of affairs of district - Disposal of property - Certificate of**
24 **dissolution.**

25 Upon receipt from the committee of its certification that the committee has determined the
26 continued operation of the district is not administratively feasible, the supervisors shall proceed
27 to terminate the affairs of the district. The supervisors of the district may dispose of all or part of
28 any property belonging to the district at public auction and shall use the proceeds of the sale to
29 pay any liabilities. The balance of any funds and undisposed property becomes the property of
30 the county or counties the district is a part of as directed by the supervisors. The supervisors
31 thereupon shall file an application, duly verified, with the secretary of state for the

1 discontinuance of the district, and shall transmit with such application the certificate of the
2 committee setting forth its determination that the continued operation of the district is not
3 administratively feasible. The application must recite what property, if any, of the district has
4 been disposed of, the liabilities paid, and the property or proceeds paid over as provided herein
5 and must set forth a full accounting of such properties and their sale proceeds. The secretary of
6 state shall issue to the supervisors a certificate of dissolution and record the certificate in an
7 appropriate record in the secretary of state's office.

8 **4.1-20-43. Ordinances, regulations, and contracts of districts after dissolution.**

9 After a certificate of dissolution has been issued as provided in section 4.1-20-42, all
10 ordinances and regulations that have been adopted and in force within the dissolved district are
11 of no further force and effect. All contracts that have been made, to which the district
12 supervisors are parties, remain in force and effect for the period provided in the contracts, and
13 the committee is substituted for the district or supervisors as party to the contracts. The
14 committee is entitled to all the benefits and subject to all the liabilities under the contracts and
15 has the same right as the supervisors of the district would have had.

16 **4.1-20-44. Petitions for discontinuance of district - Limitation on filing.**

17 The state soil conservation committee may not entertain petitions for the discontinuance of
18 any district, conduct elections upon those petitions, or make determinations pursuant to the
19 petitions in accordance with the provisions of this chapter more than once in any five-year
20 period.

21 **4.1-20-45. Consolidation of districts - Petition - Election - Conduct of election.**

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

1 the election, the time when the polls will open and close, and the question to be submitted to
2 the qualified electors. The notice must be substantially in the following form:

3 On _____, _____, an election will be held at
4 _____ for the purpose of submitting
5 (Designate polling place or places)

6 to the qualified electors within _____ soil conservation
7 (Name of district)

8 district the question as to whether _____ soil conservation
9 (Names of districts)

10 districts embracing the following townships _____
11 (Designate townships, by number and range)

12 shall be consolidated into one soil conservation district.

13 The ballot must be in the following form:

14 Shall _____ soil conservation districts embracing the
15 (Names of districts)

16 following townships _____ be
17 (Designate townships, by number and range)

18 consolidated into one soil conservation district?

19 Yes _____

20 No _____

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

24 **4.1-20-46. Conduct of election - Canvass of votes.**

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

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

4 **4.1-20-47. Supervisors of consolidated district - Terms of office - Powers and duties.**

5 The members of the board of supervisors of a newly consolidated district are the
6 supervisors from each of the districts that have been consolidated whose existing terms of office
7 would last expire if the new consolidated district were not established. Those members shall
8 determine by lot the order in which their terms of office in the consolidated district will expire. If
9 more than three districts are consolidated, the members of the board of supervisors of the
10 consolidated district must be determined by lot among the supervisors from the districts whose
11 existing terms would expire last. If only two districts are consolidated, the third member of the
12 board of supervisors of the consolidated district must be determined by lot among the remaining
13 supervisors from both such districts. The supervisors thus selected shall hold office until the
14 next general election of the district and until their successors are elected and qualified.
15 Supervisors of a consolidated district have all the powers and duties of supervisors of a soil
16 conservation district as enumerated in this chapter. The name of a consolidated district must be
17 determined by the new supervisors of the consolidated district.

18 **4.1-20-48. Costs and expenses of consolidation - Disposition of property - Contracts**
19 **of districts after consolidation.**

20 All costs and expenses incidental to the consolidation of two or more districts must be borne
21 equally by each of the consolidated districts. All property and money of the districts that have
22 been consolidated become the property of the newly established district. All contracts to which
23 the supervisors of each of the districts consolidated are parties remain in force and effect for the
24 period provided in the contracts and the supervisors of the consolidated district are substituted
25 as parties in the contracts. Supervisors of a consolidated district are entitled to all the benefits
26 and subject to all the liabilities under the contracts and have the same rights as the supervisors
27 of the district that entered the contract would have had if a consolidated district had not been
28 established.

29 **4.1-20-49. Soil conservation trust lands.**

30 The state of North Dakota holds in trust for use by the soil conservation districts of the state
31 for the soil conservation program the property in Burleigh County described as follows:

1 Township one hundred thirty-eight north, range eighty west, fifth principal meridian:
2 west one-half of section fifteen and that portion of the southeast quarter of section sixteen
3 described as follows: beginning at the southeast corner of said section sixteen, thence
4 running north on the east line of said section six hundred sixty feet [201.17 meters]; thence
5 west parallel with the south line of said section two thousand three hundred ten feet [704.09
6 meters]; thence south six hundred sixty feet [201.17 meters] to a point on the south line of
7 said section two thousand three hundred ten feet [704.09 meters] west of the southeast
8 corner of said section; thence east along the south line of said section two thousand three
9 hundred ten feet [704.09 meters] to the place of beginning; containing thirty-five acres
10 [14.16 hectares], more or less.

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

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

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

1 replacement of the trust lands may be made under conditions that will cause or may cause the
2 reversion of the lands back to the United States of America.

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

15 **SECTION 3.** Chapter 4.1-21 of the North Dakota Century Code is created and enacted as
16 follows:

17 **4.1-21-01. State forester - Appointment - Qualifications - Duties.**

18 The board of higher education shall appoint the state forester.

19 1. The state forester must be a graduate of an accredited school of forestry with a
20 minimum education of a bachelor of science degree in forestry. The office of the state
21 forester must be located in Bottineau. The state forester shall serve as the director of
22 the state forest service and, subject to the approval of the board of higher education
23 and the president of North Dakota state university, may employ assistants and secure
24 office facilities and equipment necessary for the administration of this chapter and the
25 performance of the powers and duties of the office.

26 2. The state forester shall:

27 a. Supervise the raising and distribution of seeds and forest tree planting stock as
28 provided in this chapter.

29 b. Promote practical forestry and compile and disseminate information relative to
30 practical forestry to landowners, community groups, schools, and other
31 organizations interested in forestry.

- 1 c. Encourage the development, use, and wise stewardship of forest resources.
2 d. Provide assistance to landowners, producers, and public bodies relating to
3 forestry, reforestation, protection of forest resources, prevention and suppression
4 of fires, planting of trees and shrubs, and the growing, harvesting, marketing, and
5 management of forest resources.

6 **4.1-21-02. State nursery - Maintenance - Purpose.**

7 A state nursery, under the direction of the state forester, must be maintained at Towner. The
8 nursery shall propagate seeds and forest tree planting stock adapted to the climatic conditions
9 of this state.

10 **4.1-21-03. Powers - Cooperative state agreements.**

11 Under the general supervision of the board of higher education, the state forester may:

- 12 1. Establish procedures for the administration of this chapter.
13 2. Provide grants to, and enter cooperative agreements with, public and private entities
14 for purposes consistent with this chapter.
15 3. Establish councils to advise the state forester on the administration of this chapter.

16 **4.1-21-04. State forester reserve account.**

17 The state forester reserve account is established as a special account in the state treasury.
18 All moneys received for charges in excess of the cost of production of seedlings from the state
19 nursery must be deposited in the reserve account. The state forester may use the reserve
20 account within limits of legislative appropriations for expenses relating to nursery seedling
21 losses or other unanticipated events requiring additional funding as determined necessary by
22 the state forester. If the balance of the state forester reserve account exceeds one million
23 dollars, charges for state nursery seedlings must not exceed estimated production costs until
24 the account balance is less than seven hundred thousand dollars, at which time the state
25 forester may charge one hundred ten percent of production costs.

26 **4.1-21-05. Distribution of seeds and planting stock.**

27 Seeds and planting stock from the state nursery may be distributed by the state forester to
28 citizens and landowners of this state upon payment by them of a price not greater than one
29 hundred ten percent of the cost to the state of production in the case of planting stock or
30 collection in the case of seeds, and the cost of transportation from the nursery. The seeds and
31 planting stock may be used to establish or reestablish forests, windbreaks, shelterbelts, living

1 snow fences, farm woodlots, Christmas tree plantings, wildlife habitats, and other conservation
2 tree plantings and for erosion control and water quality management.

3 **4.1-21-06. State forester may accept land for forestry purposes.**

4 The state forester may accept gifts, donations, or contributions of land suitable for forestry
5 purposes and may enter agreements for acquiring, by lease, purchase, or otherwise, such lands
6 as in the state forester's judgment are desirable for state forestry purposes.

7 **4.1-21-07. Obligations incurred in acquiring land - Payment.**

8 Obligations incurred by the state forester in the acquisition of land under this chapter must
9 be paid solely and exclusively from revenues derived from that land, and may not impose any
10 liability upon the general credit and taxing power of the state.

11 **4.1-21-08. Powers of state forester when lands acquired or leased.**

12 When lands are acquired or leased under section 4.1-21-06, the state forester may make
13 expenditures from any funds not otherwise obligated for the management, development, and
14 utilization of those areas. The state forester may provide recreational services within those
15 areas and may charge a user fee in an amount sufficient to cover the cost of providing those
16 services. The state forester may sell or otherwise may dispose of products from those lands and
17 may make necessary rules to carry out the purposes of this chapter.

18 **4.1-21-09. Revenue received from lands acquired or leased - Regulations governing -**
19 **Payments in lieu of taxes.**

20 All revenues derived from lands acquired or leased under this chapter must be segregated
21 by the state treasurer for the use of the state forester in the acquisition, management,
22 development, and use of such lands. However, from those revenues derived from agricultural
23 leases there must be paid over to the governing body of the county in which those lands are
24 located, an amount sufficient to cover the loss of tax revenues, if any, resulting from such
25 acquisition or lease.

26 **4.1-21-10. State forester may sell, exchange, or lease lands.**

27 The state forester may sell, exchange, or lease lands under the state forester's jurisdiction
28 when in the state forester's judgment it is advantageous to the best orderly development and
29 management of state forests and state parks, except any sale, lease, or exchange may not be
30 contrary to the terms of any contract that the state has entered.

1 **4.1-21-11. Agreements for shelterbelt lands by state.**

2 Any board or officer having the control or management of any real estate belonging to or
3 controlled by this state or any of its political subdivisions may enter agreements with the officers
4 and agents of the United States for the improvement by the United States of any of those lands
5 by the establishment and maintenance on those lands of shelterbelts composed of trees, other
6 plants, and necessary protective structures and works. Every agreement must describe
7 particularly the land to be covered by the shelterbelt, must be recorded at the expense of the
8 United States in the county where the land is situated, and thereafter all leases, sales, and
9 other disposition of such land are subject to the agreement.

10 **4.1-21-12. Trees for North Dakota program and trust fund.**

11 The trees for North Dakota program is created for the public purpose of strengthening the
12 tradition of tree planting and management in this state.

13 A special fund known as the trees for North Dakota program trust fund is established in the
14 state treasury. Income earned on moneys in the fund must be credited to the fund. The state
15 forester shall deposit all program funds received from governmental and private sources in the
16 trust fund. Program funds may be expended for direct costs or distributed for grants and
17 contracts by the state forester within the limits of legislative appropriations for defraying the
18 costs associated with execution of the trees for North Dakota program.

19 Any political subdivision of the state may provide financial aid or supportive services to the
20 trees for North Dakota program.

21 **SECTION 4.** Chapter 4.1-22 of the North Dakota Century Code is created and enacted as
22 follows:

23 **4.1-22-01. Definitions.**

24 In this chapter, except as otherwise provided:

- 25 1. "Certificate of inspection" means a document issued or authorized by the
26 commissioner stating nursery stock is practically free from damaging pests.
- 27 2. "Commissioner" means the agriculture commissioner or the commissioner's designee.
- 28 3. "Grower" means any person that takes a reproductive part of nursery stock and
29 increases the size and development of the stock for at least one full growing season. A
30 grower includes a person producing nursery stock from tissue culture.

- 1 4. "Infested" means infected with a quantity of pests or so exposed to a quantity of pests
2 that it would be reasonable to believe potential for harm or threat to the health of the
3 host nursery stock exists.
- 4 5. "Nonhardy" means plant species, varieties, and cultivars that will not survive climatic
5 conditions in North Dakota.
- 6 6. "Nursery" means any place where nursery stock is propagated, grown, or offered for
7 sale.
- 8 7. "Nursery stock" means all trees, shrubs, woody vines and their parts that are capable
9 of propagation or growth, except seed. Only plants intended for outdoor planting are
10 considered nursery stock.
- 11 8. "Pest" means any invertebrate animal, pathogen, parasitic plant, or other similar
12 organism that can cause damage to nursery stock.
- 13 9. "Place of business" means each separate location from which nursery stock is being
14 offered for sale.
- 15 10. "Viable nursery stock" means nursery stock that is capable of living and accomplishing
16 the purpose for which it is grown, whether for foliage, flowers, fruit, or special use.

17 **4.1-22-02. Administration - Rulemaking authority.**

18 The commissioner shall administer this chapter. The commissioner may adopt rules under
19 chapter 28-32 to implement this chapter.

20 **4.1-22-03. Authority for inspection.**

21 The commissioner shall inspect all nursery stock being grown in North Dakota at least once
22 each year and may enter and inspect any nursery or place of business during normal business
23 hours.

24 **4.1-22-04. Authority for abatement - Removal from sale.**

25 After giving notice to the owner or the owner's agent, the commissioner may destroy, treat,
26 or remove from sale, at the owner's expense, any nursery stock offered for sale found to be not
27 viable, not accompanied by a certificate of inspection, not labeled correctly, or infested with a
28 pest.

29 **4.1-22-05. Certification of nursery stock.**

30 The commissioner shall issue a certificate of inspection annually for nursery stock grown in
31 licensed nurseries within the state found to be practically free from damaging pests. Certificates

1 expire on December thirty-first each year unless canceled at an earlier date. Certification may
2 be withheld by the commissioner when nursery stock is infested with a pest or if weeds or other
3 objects prevent an adequate inspection of the nursery stock. All nursery stock being offered for
4 sale within the state must be from officially inspected sources. A copy of a certificate of
5 inspection from the state of origin must accompany each commercial lot or shipment of nursery
6 stock that is transported into or offered for sale within North Dakota. All copies of the North
7 Dakota certificate of inspection required for shipping purposes must be approved by the
8 commissioner.

9 **4.1-22-06. Nursery license - Fee.**

10 A person may not sell nursery stock without a license issued by the commissioner. Licenses
11 expire on December thirty-first each year unless revoked at an earlier date. An application for
12 renewal of license with any additional information required by the commissioner must be
13 submitted and accompanied by a fee of fifty dollars on or before December thirty-first each year.
14 A separate license is required for each place of business. A fee of ten dollars must be submitted
15 for each additional license, other than the principal place of business. A license may not be
16 issued to a grower unless the grower has first been issued a certificate of inspection.

17 **4.1-22-07. Labeling and standards for nursery stock.**

18 A person may not sell or offer for sale any nursery stock not labeled in accordance with the
19 international code of nomenclature for cultivated plants with the complete correct botanical or
20 approved recognized common name. All nonhardy trees and shrubs, as determined by the
21 commissioner, must be labeled "nonhardy in North Dakota". All nursery stock offered for sale or
22 distribution must be in a viable condition and must be stored and displayed under conditions
23 that will maintain its viability. Materials used to coat the aerial parts of the plant which change
24 the appearance of the plant surface to prevent adequate inspection are prohibited.

25 **4.1-22-08. Misrepresentation.**

26 A person may not misrepresent the name, age, origin, grade, variety, quality, or hardiness of
27 any nursery stock being offered for sale.

28 **4.1-22-09. Reciprocal agreements.**

29 The commissioner may enter reciprocal agreements with officers of other states for the
30 recognition of official licenses and inspection certificates.

1 **4.1-22-10. Exemptions.**

2 The commissioner may exempt certain nursery stock, nurseries, or persons from all or part
3 of the provisions of this chapter. Exemptions from licenses and fees may include:

- 4 1. Persons growing and propagating nursery stock for research or experimental
5 purposes;
6 2. Soil conservation districts selling nursery stock for the prevention of soil and wind
7 erosion or other conservation plantings; and
8 3. Persons growing nursery stock for noncommercial purposes or that the commissioner
9 designates as exempt.

10 **4.1-22-11. Penalties - Criminal - Civil - License revocation or nonrenewal.**

- 11 1. It is a class B misdemeanor for any person to violate this chapter, or any rules adopted
12 under this chapter.
13 2. Any person who violates any provision of this chapter, or rule adopted under this
14 chapter, is subject to a civil penalty not to exceed five hundred dollars for each
15 violation. The civil penalty may be adjudicated by the courts or by the commissioner
16 through an administrative hearing under chapter 28-32.
17 3. The department may maintain, in accordance with the laws of this state, an
18 appropriate civil action in the name of the state against any person violating this
19 chapter or rules adopted under this chapter.
20 4. The commissioner may refuse to grant a license to any person found guilty of
21 repeated violations of this chapter or rules adopted under this chapter, or to any
22 person who has failed to pay an adjudicated civil penalty for violation of this chapter
23 within thirty days after a final determination that the civil penalty is owed.

24 **SECTION 5.** Chapter 4.1-48 of the North Dakota Century Code is created and enacted as
25 follows:

26 **4.1-48-01. Definitions.**

27 In this chapter, unless the context or subject matter otherwise requires:

- 28 1. "Buyer" means an individual, group of individuals, organization, or entity that in the
29 ordinary course of business buys potatoes or byproducts of potatoes grown in this
30 state or that contracts with a potato producer to grow potatoes in this state.

- 1 2. "Good faith" means honesty in fact and the observance of reasonable commercial
2 standards of fair dealing.
- 3 3. "Potatoes" means potatoes or byproducts of potatoes produced for use in or as food,
4 seed, feed, or other byproducts of the farm for the same or similar use.
- 5 4. "Producer" means an individual, group of individuals, organization, or entity that
6 produces or causes to be produced potatoes by contracting with a buyer or processor
7 to provide management, labor, machinery, facilities, or any production input for the
8 production of potatoes.

9 **4.1-48-02. Unfair acts and practices prohibited.**

10 The following prohibited acts or practices, when engaged in by a buyer in connection with a
11 potato production contract or purchase involving potatoes constitute unfair acts or practices for
12 purposes of this chapter. A buyer may not:

- 13 1. Use coercion, intimidation, the threat of retaliation or the threat of contract termination,
14 cancellation, or nonrenewal to impose, demand, compel, or dictate terms, payment or
15 manner of payment, or the signing of a contract by a potato producer.
- 16 2. Use coercion, intimidation, the threat of retaliation, or the threat of contract
17 termination, cancellation, or nonrenewal to require a producer to make capital
18 improvements such as buildings or equipment.
- 19 3. Interfere with, restrain, or coerce a producer in the exercise of the right to join, form, or
20 assist a producer bargaining cooperative or association.
- 21 4. Refuse to deal with a producer because of the exercise of the right to join and belong
22 to a producer bargaining cooperative or association.
- 23 5. Refuse to provide to the producer, upon request, the statistical information and the
24 data used to determine compensation paid to the producer for settlement.
- 25 6. Refuse to allow a producer or the producer's designated representative to observe, by
26 actual observation at the time of weighing, the weights and measures used to
27 determine the producer's compensation at settlement.
- 28 7. Use the performance of any other producer to determine the settlement of a producer.
- 29 8. Refuse to bargain with an established producer bargaining cooperative or association
30 formed for the purpose of negotiating contracts and agreements.

1 **4.1-48-03. Civil liability for damages from an unfair act or practice.**

2 A person who engages in conduct that constitutes an unfair act or practice under section
3 4.1-48-02 is liable to a producer for all damages caused to the producer by the unfair act or
4 practice.

5 **4.1-48-04. Good faith - Damages for violation - Penalty.**

6 There is an implied promise of good faith by all parties to a potato production contract. In an
7 action to recover damages, if the court or a jury finds there has been a breach of the implied
8 promise of good faith, in addition to other damages authorized by law, attorney's fees and court
9 costs may be awarded.

10 **4.1-48-05. Recapture of capital investment required by a potato production contract.**

11 1. A contractor may not terminate or cancel a contract that requires a producer to make a
12 capital investment in buildings or equipment that cost one hundred thousand dollars or
13 more and have a useful life of five or more years until:

14 a. The producer has been given written notice of the intention to terminate or cancel
15 the contract at least one hundred eighty days before the effective date of the
16 termination or cancellation, or as provided in subsection 3; and

17 b. The producer has been reimbursed for damages incurred by an investment in
18 buildings or equipment that was made for the purpose of meeting minimum
19 requirements of the contract.

20 2. Except as provided in subsection 3, if a producer fails to comply with the provisions of
21 a contract that requires a capital investment subject to subsection 1, a contractor may
22 not terminate or cancel that contract until:

23 a. The contractor has given written notice with all the reasons for the termination or
24 cancellation at least ninety days before termination or cancellation, or as
25 provided in subsection 3; and

26 b. The recipient of the notice fails to correct the reasons stated for termination or
27 cancellation in the notice within sixty days of receipt of the notice.

28 3. The one hundred eighty-day notice period under subsection 1, and the ninety-day
29 notice period and the sixty-day notice period under subsection 2, are waived and the
30 contract may be canceled or terminated immediately if the alleged grounds for
31 termination or cancellation are:

- 1 a. Voluntary abandonment of the contract relationship by the producer; or
- 2 b. Conviction of the producer of an offense directly related to the business
- 3 conducted under the contract.

4 **SECTION 6. AMENDMENT.** Section 57-38-34.6 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-38-34.6. Optional contributions to trees for North Dakota program trust fund.**

7 An individual may designate on the tax return of that individual a contribution to the trees for
8 North Dakota program trust fund of any amount of one dollar or more to be added to tax liability
9 or deducted from any refund that would otherwise be payable by or to the individual. The tax
10 commissioner shall notify taxpayers of this optional contribution on the individual state income
11 tax returns. The tax commissioner shall transfer the amount of optional contributions under this
12 section to the state treasurer for deposit in the trees for North Dakota program trust fund for use
13 as provided in chapter ~~4-21.24.1-21~~.