

SENATE BILL NO. 2342

Introduced by

Senators Piepkorn, Elkin, Hogan, Mathern

Representatives Dobervich, Simons

1 A BILL for an Act to create and enact a new chapter to title 4.1 of the North Dakota Century
2 Code, relating to healthy soil grant and healthy soil assessment and education programs; and to
3 amend and reenact sections 4.1-20-01, 4.1-20-02, subsection 5 of section 4.1-20-18, sections
4 4.1-20-19, 4.1-20-23, 4.1-20-24, 4.1-20-25, 4.1-20-26, 4.1-20-28, subsection 1 of section
5 4.1-20-32, and section 4.1-20-33 of the North Dakota Century Code, relating to soil
6 conservation, soil conservation district supervisor compensation, training, powers and duties,
7 elections, and land use regulations; and to provide for a continuing appropriation.

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

9 **SECTION 1. AMENDMENT.** Section 4.1-20-01 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **4.1-20-01. Policy and scope of chapter.**

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

18 **SECTION 2. AMENDMENT.** Section 4.1-20-02 of the North Dakota Century Code is
19 amended and reenacted as follows:

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

21 In this chapter, unless the context otherwise requires:

- 22 1. "Committee" means the state soil conservation committee.
23 2. "Director" means the director of the North Dakota state university extension service.

- 1 3. "District" means a political subdivision of this state organized as a soil conservation
2 district under this chapter.
- 3 4. "Due notice" means notice published at least twice, with at least seven days between
4 publications, in a newspaper or other publication of general circulation within the
5 appropriate area.
- 6 5. "Government" includes the government of this state, the government of the United
7 States, and any subdivision, agency, or instrumentality, corporate or otherwise, of
8 either of them.
- 9 6. "Land occupier" includes any person that holds title to or is in possession of any lands
10 lying within a district.
- 11 7. "Qualified elector" means an individual who is at least eighteen years old, is a citizen
12 of the United States, and has resided in the precinct thirty days next preceding the
13 election.
- 14 8. "Soil health" means the ability of soil to:
- 15 a. Enhance the soil's continuing capacity to function as a vital biological system;
16 b. Increase the soil's organic matter;
17 c. Improve the soil's structure and water-holding and nutrient-holding capacity; and
18 d. Sustain plants, animals, and individuals.
- 19 9. "Supervisor" means one of the members of the governing body of a district, elected or
20 appointed, in accordance with this chapter.

21 **SECTION 3. AMENDMENT.** Subsection 5 of section 4.1-20-18 of the North Dakota Century
22 Code is amended and reenacted as follows:

- 23 5. Upon a majority vote of the supervisors, the supervisors of a soil conservation district
24 are entitled to receive compensation of up to ~~sixty-two~~sixty-five dollars and ~~fifty cents~~
25 for attending each regular or special meeting or for attending other meetings or events
26 in the performance of their official duties. Supervisors of soil conservation districts are
27 entitled to receive travel and subsistence expenses necessarily incurred in attending
28 district, state, or other meetings. The compensation and all other expenses including
29 travel incurred by district supervisors while transacting district business must be paid
30 from district funds.

1 **SECTION 4. AMENDMENT.** Section 4.1-20-19 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **4.1-20-19. Soil conservation district supervisors - Training.**

4 As soon as practicable after an individual is elected or appointed to the position of a soil
5 conservation district supervisor, the individual shall attend a training session delivered by the
6 state soil conservation committee, and the individual shall attend or participate in annual
7 training as determined by the state soil conservation committee. The training provided under
8 this section must include training in soil health measurement and improvement.

9 **SECTION 5. AMENDMENT.** Section 4.1-20-23 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **4.1-20-23. Supervisors may consult city or county representatives.**

12 The supervisors may invite the governing body of any city or county located within or near
13 the district to designate a representative to advise and consult with the supervisors on issues
14 that may affect the property, water supply, soil health, storm water management, flood
15 mitigation, or other interests of the city or county.

16 **SECTION 6. AMENDMENT.** Section 4.1-20-24 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **4.1-20-24. Powers and duties of districts and supervisors.**

- 19 1. A soil conservation district may exercise the public powers ordinarily exercised by a
20 political subdivision of the state, and the district and the supervisors of the district have
21 the following powers in addition to those granted in other sections of this chapter:
- 22 a. To conduct surveys, investigations, and research relating to the character of soil
23 health and soil erosion and the preventive, restoration, and control measures
24 needed; to publish the results of those surveys, investigations, or research; and
25 to disseminate information concerning the preventive, restoration, and control
26 measures. To avoid duplication of research activities, a district may not initiate
27 any research program except in cooperation with the government of this state or
28 any of its agencies, or with the United States or any of its agencies.
 - 29 b. To conduct demonstrational projects within the district on lands owned or
30 controlled by this state or any of its agencies, with the cooperation of the agency
31 administering and having jurisdiction of the land, and on any other lands within

1 the district after obtaining the consent of the occupier of those lands or the
2 necessary rights or interests in those lands, to demonstrate by example the
3 means, methods, and measures by which soil ~~and~~, soil resources, and soil health
4 may be conserved and restored, and soil erosion in the form of soil blowing and
5 soil washing may be prevented and controlled.

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

13 d. To cooperate or enter agreements with, and, within the limits of appropriations
14 duly made available to it by law, to furnish financial or other aid to any agency,
15 governmental or otherwise, or any occupier of lands within the district in the
16 carrying on of erosion control and prevention operations, and soil health
17 improvement programs, within the district, subject to the conditions as the
18 supervisors may deem necessary to advance the purposes of this chapter.

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

26 f. To make available, on terms the soil conservation district prescribes, to land
27 occupiers, government units or qualified electors within the district, agricultural
28 and engineering machinery and equipment, fertilizer, seeds and seedlings, and
29 any other material or equipment as will assist those land occupiers, government
30 units or qualified electors to carry on operations upon their lands for the

- 1 conservation and restoration of soil health and soil and water resources and for
2 the prevention and control of soil erosion.
- 3 g. To construct, improve, and maintain structures as may be necessary or
4 convenient for the performance of any of the operations authorized in this
5 chapter.
- 6 h. To develop comprehensive plans for the conservation and restoration of soil
7 health and soil resources and for the control and prevention of soil erosion within
8 the district, which plans must specify in such detail as may be possible the acts,
9 procedures, performances, and avoidances that are necessary or desirable for
10 the effectuation of those plans, including the specification of engineering
11 operations, methods of cultivation, the growing of vegetation, cropping programs,
12 tillage practices, and changes in use of land, and to publish such plans and
13 information and bring them to the attention of occupiers and owners of lands
14 within the district.
- 15 i. To take over, by purchase, lease, or otherwise, and to administer any soil
16 conservation, soil health, soil restoration, erosion control, or erosion prevention
17 project located within its boundaries undertaken by the United States or any of its
18 agencies, or by this state or any of its agencies; to manage, as agent of the
19 United States, or any of its agencies or of this state or any of its agencies, any
20 soil conservation, soil health, soil restoration, erosion control, or erosion
21 prevention project within its boundaries; to act as agent for the United States or
22 any of its agencies or for this state or any of its agencies in connection with the
23 acquisition, construction, operation, or administration of any soil conservation,
24 soil health, soil restoration, erosion control, or erosion prevention project within its
25 boundaries; and to accept donations, gifts, and contributions in money, services,
26 materials, or otherwise from the United States or any of its agencies or from this
27 state or any of its agencies, and to use or expend those moneys, services,
28 materials, or other contributions in carrying on its operations.
- 29 j. To sue and be sued in the name of the district.
- 30 k. To have a seal, which seal must be noticed judicially.
- 31 l. To have perpetual succession unless terminated as provided in this chapter.

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

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

SECTION 9. AMENDMENT. Section 4.1-20-28 of the North Dakota Century Code is amended and reenacted as follows:

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

The land use regulations that may be adopted by the supervisors under 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, cover cropping, low-till, no-till stripcropping, and 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 any other means, measures, operations, and programs as may assist conservation and restoration of soil health and soil and water resources and prevent or control soil erosion in the district, having due regard to the declaration of policy set forth in this chapter.

SECTION 10. AMENDMENT. Subsection 1 of section 4.1-20-32 of the North Dakota Century Code is amended and reenacted as follows:

1. If the supervisors of any district find any land use regulations prescribed in any ordinance are not being observed on particular lands, tending to increase erosion on those lands and interfering with soil health or the prevention or control of erosion on

1 other lands within the district, the supervisors may present to the district court a duly
2 verified petition setting forth:

3 a. The adoption of the ordinance prescribing land use regulations;

4 b. The alleged failure of the defendant land occupier to observe the regulations and
5 perform particular work, operations, or avoidances required by the regulations
6 and that the failure tends to increase erosion on those lands and interfere with
7 the prevention or control of erosion on other lands within the district; and

8 c. Requesting that the court order the defendant to perform the work, operations, or
9 avoidances within a reasonable time and that if the defendant fails to do so, the
10 supervisors may:

11 (1) Enter upon the land;

12 (2) Perform the necessary work to bring the condition of the land into conformity
13 with the regulations; and

14 (3) Assess the costs and expenses of the work, with interest, to the defendant.

15 **SECTION 11. AMENDMENT.** Section 4.1-20-33 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **4.1-20-33. Board of adjustment - Members - Appointment - Vacancies -**
18 **Compensation.**

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

1 traveling expenses necessarily incurred in the discharge of their duties. The supervisors shall
2 pay the necessary administrative and other expenses of operation incurred by the board upon
3 the certificate of the chairman of the board.

4 **SECTION 12.** A new chapter to title 4.1 of the North Dakota Century Code is created and
5 enacted as follows:

6 **Definitions.**

7 1. As used in this chapter:

8 a. "Champion" means a land manager who demonstrates excellence in applying
9 and promoting soil health principles.

10 b. "Eligible entity" means a local government entity with proven land management
11 capacity to support healthy soil. The term includes the North Dakota state
12 university extension service, a soil conservation district, a water conservation
13 district, an Indian nation or tribe, or a land-grant institution.

14 c. "Healthy soil" means soil that has the ability to:

15 (1) Enhance the soil's continuing capacity to function as a vital biological
16 system;

17 (2) Increase the soil's organic matter;

18 (3) Improve the soil's structure and water-holding and nutrient-holding capacity;
19 and

20 (4) Sustain plants, animals, and individuals.

21 d. "Program" means the healthy soil grant program.

22 e. "Soil health principle" means a principle that promotes soil health in a specific
23 environment. The term includes:

24 (1) Keeping soil covered;

25 (2) Minimizing soil disturbance on cropland;

26 (3) Minimizing external inputs;

27 (4) Maximizing biodiversity;

28 (5) Maintaining living roots; and

29 (6) Integrating animals into land management.

30 f. "Society" means the soil and water conservation society.

- 1 g. "Supported method" means a method based on soil health principles and which
2 is scientifically proven to promote healthy soil.
- 3 h. "Technical assistance" means assistance provided to a farmer or rancher to
4 achieve healthy soil. The term includes:
- 5 (1) Outreach;
6 (2) Education;
7 (3) Financial assistance;
8 (4) Project planning and design assistance;
9 (5) Grant application assistance; and
10 (6) Project implementation and reporting assistance.
- 11 i. "Technical assistance provider" means a federal, state, local, or tribal government
12 entity or political subdivision with demonstrated expertise in designing and
13 implementing agricultural management practices that contribute to healthy soils.
14 The term includes the North Dakota state university extension service, a soil
15 conservation district, a water conservation district, the United States natural
16 resources conservation service, the United States forest service, the United
17 States bureau of land management, the board of university and school lands, the
18 state forester, and the department of environmental quality.

19 **Healthy soil grant program - Continuing appropriation.**

- 20 1. The commissioner shall collaborate with the society and the North Dakota state
21 university extension service to develop and administer a healthy soil grant program
22 through the healthy soil grant fund to promote and support farming and ranching
23 systems that increase soil organic matter, soil stability, soil microbiology, soil water
24 retention, and which improve the health, yield, and profitability of soil in the state.
- 25 2. The commissioner shall adopt rules in collaboration with the society and the North
26 Dakota state university extension service to administer the grant program under this
27 section, including rules establishing an application process, eligibility criteria,
28 distribution of grants, and a reporting process.
- 29 3. The healthy soil grant fund is a special fund created in the state treasury. Moneys in
30 the fund are appropriated on a continuing basis to the commissioner to award grants

- 1 to eligible entities to provide technical assistance to producers and land managers in
2 advancing soil health principles and implementing supported methods.
- 3 4. Priority in awarding grants under the program must be given to eligible entities serving
4 young producers, veterans, small farms or ranches, and economically or socially
5 disadvantaged communities, as determined by the commissioner.
- 6 5. Grant funds awarded under this section only may be used to advance soil health.
- 7 6. The commissioner may accept and expend gifts, grants, and donations in support of
8 the healthy soil grant program.

9 **Healthy soil assessment and education program.**

- 10 1. The commissioner shall collaborate with the society and the North Dakota state
11 university extension service to develop and administer a healthy soil assessment and
12 education program to promote and support farming and ranching systems that
13 increase soil organic matter, soil stability, soil microbiology, soil water retention, and
14 which improve the health, yield, and profitability of soil in the state.
- 15 2. The commissioner may consult with technical assistance providers and eligible entities
16 to provide and promote the healthy soil assessment and education program and to:
- 17 a. Encourage farmers, ranchers, and land managers to implement soil health
18 principles;
- 19 b. Raise awareness of desirable soil health characteristics;
- 20 c. Facilitate onsite, producer-led workshops and training sessions to promote soil
21 health stewardship; and
- 22 d. Complete a baseline soil health assessment of soil in the state by:
- 23 (1) Testing organic matter;
- 24 (2) Testing water infiltration rate;
- 25 (3) Testing the microbiology and aggregate stability of the soil;
- 26 (4) Analyzing phospholipids; and
- 27 (5) Monitoring soil cover.
- 28 3. Under the program, the commissioner shall:
- 29 a. Establish a statewide network of champions to promote soil health stewardship,
30 offer guidance to producers and land managers, and encourage teamwork;
- 31 b. Provide ongoing training in soil health stewardship and workshop facilitation;

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- 1 c. Educate students and members of the public on soil health stewardship;
- 2 d. Support local economic growth in the state;
- 3 e. Identify methods to increase carbon sequestration through healthy soil principles;
- 4 f. Identify state and federal incentives for farmers and ranchers to sequester carbon
- 5 in soil;
- 6 g. Prioritize in-state resources for the program, including testing supplies, compost,
- 7 seeds, fencing, and other equipment; and
- 8 h. Support local farmers who use healthy soil principles.