

"Senate Highlights," Trenton Evening Times, May 26, 1937
"Capitol Highlights," Trenton Evening Times, May 25, 1937
"Little Prospect of Concluding Legislative Session This Week," Trenton Sunday Times - Advertiser, May 23, 1937
"Tieup Looming in Legislature," Trenton Evening Times, May 17, 1937
"More Measures to Create New Jobs," Trenton Evening Times, April 20, 1937
"Roosevelt Enlists Dust Storm Help," Trenton Sunday Times - Advertiser, February 28, 1937
"Roosevelt Urges Soil Safety Laws," Trenton Evening Times, February 27, 1937
"Soil Conservation Program Announced for New Jersey," Trenton Evening Times, January 25, 1937
"Farm Aide Lauds State Police Head," Trenton Evening Times, January 16, 1937

LAW/RWH

ASSEMBLY, No. 509

STATE OF NEW JERSEY

INTRODUCED APRIL 19, 1937

By Mr. DEVOE

Referred to Committee on Judiciary

AN ACT concerning soil conservation and providing for the creation of soil conservation districts, to engage in conserving soil resources and preventing and controlling soil erosion; to establish the State Soil Conservation Committee, and to define its powers and duties; to define the powers and duties of soil conservation districts, and to provide for the exercise of such powers.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

ARTICLE I

DECLARATION OF POLICY

1 101. It is hereby declared to be the policy of the Legislature to provide
2 for the conservation of the soil and soil resources of this State, and for
3 the control and prevention of soil erosion.

ARTICLE II

DEFINITIONS

1 201. Wherever used or referred to in this act, unless a different mean-
2 ing clearly appears from the context:

3 (a) "District" or "Soil Conservation District" means a governmental
4 subdivision of this State, and a public body corporate and politic, organized
5 in accordance with the provisions of this act, for the purposes, with the
6 powers, and subject to the restrictions hereinafter set forth;

- 7 (b) "Supervisor" means one of the members of the governing body of
8 a district, appointed in accordance with the provisions of this act;
- 9 (c) "Committee" or "State Soil Conservation Committee" means the
10 agency created in article three of this act;
- 11 (d) "Petition" means a petition filed under the provisions of article
12 four of this act for the creation of a district;
- 13 (e) "State" means the State of New Jersey;
- 14 (f) "Agency of this State" includes the government of this State and
15 any subdivision, agency, or instrumentality, corporate or otherwise, of the
16 government of this State;
- 17 (g) "United States" or "Agencies of the United States" includes the
18 United States of America, the Soil Conservation Service of the United States
19 Department of Agriculture, and any other agency or instrumentality, cor-
20 porate or otherwise, of the United States of America;
- 21 (h) "Government" or "Governmental" includes the government of this
22 State, the Government of the United States, and any subdivision, agency or
23 instrumentality, corporate or otherwise, of either of them;
- 24 (i) "Land owner" includes any person, firm or corporation who shall
25 hold title to any lands lying within a district organized under the pro-
26 visions of this act;
- 27 (j) "Due Notice" means notice published at least twice, with an interval
28 of at least seven days between the two publication dates, in a newspaper
29 or other publication of general circulation within the appropriate area, or
30 if no such publication of general circulation be available, by posting at a
31 reasonable number of conspicuous places, within the appropriate area, such
32 posting to include, where possible, posting at public places where it may be
33 customary to post notices concerning county or municipal affairs generally.
34 At any hearing held pursuant to such notice, at the time and place desig-
35 nated in such notice, adjournment may be made from time to time, without
36 the necessity of renewing such notice for such adjourned dates.

ARTICLE III

STATE SOIL CONSERVATION COMMITTEE

1 301. There is hereby established, to serve as an agency of the State
2 and to perform the functions conferred upon it in this act, the State Soil
3 Conservation Committee. The Director of the Experiment Station, the
4 Director of the Extension Service, the Secretary for the Board of Agricul-
5 ture, the Director of the Department of Conservation and Development, the
6 Master of the State Grange and the President of the State Farm Bureau
7 of this State shall serve as members of this committee. The committee
8 shall invite the Secretary of Agriculture of the United States of America
9 to appoint one person, a resident of the State of New Jersey, to serve with
10 the above-mentioned members as a member of the committee. The com-
11 mittee shall keep a record of its official actions, shall adopt a seal, which
12 seal shall be judicially noticed, and may perform such acts, hold such public
13 hearings, and promulgate such rules and regulations as may be necessary
14 for the execution of its functions under this act.

1 302. The State Soil Conservation Committee may employ, subject to the
2 rules of the State Civil Service Commission, a qualified administrative
3 officer and such technical experts and such other agents and employees,
4 permanent and temporary, as it may require, and shall determine their
5 qualifications, duties and compensation of all employees. The committee
6 shall call upon the Attorney-General of the State for such legal services as
7 it may require for the purpose of carrying out any of its functions. The
8 committee may enter into co-operative agreements with any other State
9 agency.

1 303. The committee shall designate its chairman, and may, from time to
2 time, change such designation. A member of the committee shall hold office
3 so long as he shall retain the office by virtue of which he shall be serving
4 on the committee. A majority of the committee shall constitute a quorum,
5 and the concurrence of a majority in any matter within their duties shall
6 be required for its determination. The chairman and members of the com-

7 mittee shall receive no compensation for their services on the committee,
8 but shall be entitled to expenses, necessarily incurred in the discharge of
9 their duties on the committee. The committee shall provide for the execu-
10 tion of surety bonds for all employees and officers who shall be entrusted
11 with funds or property; shall provide for the keeping of a full and accurate
12 record of all proceedings and of all resolutions, regulations, and orders
13 issued or adopted; and shall provide for an annual audit of the accounts
14 of receipts and disbursements.

1 304. In addition to the duties and powers hereinafter conferred upon
2 the State Soil Conservation Committee, it shall have the following duties and
3 powers:

4 (a) To accept from the United States or any of its agencies, contribu-
5 tions in services, materials, money, or otherwise, and to use or expend such
6 contributions in the formulation of comprehensive plans for the conservation
7 of soil resources and the prevention of soil erosion within the State and to
8 conduct surveys, investigations, demonstrations, and research relating to soil
9 erosion and the preventive measures needed in areas subject to erosion by
10 wind and water, to publish results of any such surveys, investigations or
11 research and to disseminate information; *provided, however,* that in order
12 to avoid duplication of research, demonstration, and the dissemination of
13 information, no program of such activities shall be carried on except in co-
14 operation with the State Agricultural College and the State Agricultural
15 Experiment Stations, or such other State agency as may be dealing with
16 allied problems;

17 (b) To offer such assistance to the supervisors of Soil Conservation
18 Districts, organized as provided hereinafter as may be appropriate in the
19 carrying out of any of their powers and programs;

20 (c) To co-ordinate the programs of the several Soil Conservation Dis-
21 tricts organized hereunder;

22 (d) To secure the co-operation and assistance of the United States and
23 any of its agencies, and of agencies of this State, in the work of such dis-
24 tricts;

25 (e) To disseminate information throughout the State concerning the
26 activities and programs of the soil conservation districts organized here-
27 under, and to encourage the formation of such districts in areas where their
28 organization is desirable.

ARTICLE IV

CREATION OF SOIL CONSERVATION DISTRICTS

1 401. Any twenty-five (25) land owners lying within the limits of the
2 territory proposed to be organized into a district may file a petition with
3 the State Soil Conservation Committee asking that a soil conservation dis-
4 trict be organized to function in the territory described in the petition.
5 Such petition shall set forth:

6 (a) The proposed name of said district;

7 (b) That there is need, in the interest of the public health, safety, or
8 welfare, for a soil conservation district to function in the territory described
9 in the petition;

10 (c) A description of the territory proposed to be organized as a dis-
11 trict, which description shall not be required to be given by metes and
12 bounds or by legal subdivisions, but shall be deemed sufficient if generally
13 accurate;

14 (d) A request that the State Soil Conservation Committee duly define
15 the boundaries for such district; that a referendum be held within the ter-
16 ritory so defined on the question of the creation of a soil conservation dis-
17 trict in such territory; and that the committee determine that such a dis-
18 trict be created;

19 Where more than one petition is filed covering parts of the same terri-
20 tory, the State Soil Conservation Committee may consolidate all or any
21 such petitions.

1 402. Within thirty (30) days after such a petition has been filed with the
2 State Soil Conservation Committee, it shall cause due notice to be given of
3 a proposed hearing upon the question of the desirability and necessity, in the
4 interest of the public health, safety, or welfare, of the creation of such

5 district, upon the question of the appropriate boundaries to be assigned to
6 such district, upon the propriety of the petition and other proceedings taken
7 under this act, and upon all questions relevant to such inquiries. All land
8 owners within the limits of the territory described in the petition, and of
9 lands within any territory considered for addition to such described terri-
10 tory, and all other interested parties, shall have the right to attend such
11 hearings and to be heard. If it shall appear upon the hearing that it may
12 be desirable to include within the proposed district territory outside of the
13 area within which due notice of the hearing has been given, the hearing shall
14 be adjourned and due notice of further hearing shall be given throughout the
15 entire area considered for inclusion in the district, and such further hearing
16 held. After such hearing, if the committee shall determine, upon the facts
17 presented at such hearing and upon such other relevant facts and informa-
18 tion as may be available, that there is need, in the interest of the public
19 health, safety, or welfare, for a soil conservation district to function in the
20 territory considered at the hearing, it shall make and record such determina-
21 tion, and shall define, by metes and bounds or by legal subdivisions, or by
22 other clearly ascertainable boundaries, the boundaries of such district. The
23 territory to be included within such boundaries need not be contiguous. If the
24 committee shall determine after such hearing, that there is no need for a
25 soil conservation district to function in the territory considered at the hear-
26 ing, it shall make and record their determination and shall deny the petition.
27 After one year shall have expired from the date of the denial of any such
28 petition, subsequent petitions covering the same or substantially the same
29 territory may be filed as aforesaid and new hearings held and determinations
30 made thereon.

1 403. Within a reasonable time after the finding that there is need for the
2 organization of the proposed district and the determination of the boundaries
3 thereof, the committee shall hold a referendum within the proposed district
4 upon the proposition of the creation of the district, and shall cause notice
5 thereof to be given, as hereinafter provided. The question shall be submitted

6 by ballots upon which the words "For creation of a Soil Conservation Dis-
7 trict of the lands below described and lying in the county(ies) of
8, and" and "Against
9 creation of a Soil Conservation District of the lands below described and
10 lying in the county(ies) of and"
11 shall appear with a square before each proposition and a direction to insert
12 an X mark in the square before one or the other of said propositions as the
13 voter may favor or oppose creation of such district. The ballot shall set
14 forth the boundaries of such proposed district as determined by the com-
15 mittee. All owners of land lying wholly or in part within the boundaries of
16 the proposed district shall be eligible to vote in such referendum. The State
17 committee shall prepare a list of land owners in the proposed district with
18 their addresses and the number of acres owned by each and post same in two
19 or more conspicuous places at least ten days before the date of holding said
20 referendum. It shall also mail a notice of said referendum to each land
21 owner whose name appears on said list at least ten days prior to the
22 referendum. The committee may correct errors and omissions in the poll list.
23 Only those whose names appear on said list may vote. Before a ballot is
24 cast the person conducting the referendum shall inscribe thereon the number
25 of acres owned by the voters, but no other distinguishing mark.

1 404. The committee shall pay all expenses for the issuance of such
2 notices and the conduct of such hearings and referenda and shall supervise
3 the conduct of such hearings and referenda. It shall issue appropriate
4 regulations governing the conduct of such hearings and referenda. No
5 informalities in the conduct of such referendum shall invalidate the result
6 thereof if notice thereof shall have been given as herein provided and said
7 referendum shall have been fairly conducted.

1 405. The committee shall publish the result of such referendum and shall
2 thereafter consider and determine whether the operation of the district
3 within the defined boundaries is administratively practicable and feasible. If
4 the committee shall determine that the operation of such district is admin-

5 istratively practicable and feasible, it shall record such determination and
6 shall proceed with the organization of the district, in the manner hereinafter
7 provided, otherwise it shall deny the petition. In making such determination
8 the committee may give due regard and weight to the attitudes of the owners
9 of lands lying within the defined boundaries, the number of land owners
10 eligible to vote in such referendum who shall have voted, the proportion of
11 the votes cast in such referendum in favor of the creation of the district to
12 the total number of votes cast, the approximate wealth and income of the land
13 owners of the proposed district, the probable expense of carrying on erosion-
14 control operations within such district, and such other economic and social
15 factors as may be relevant to such determination; *provided, however*, that the
16 committee shall not have authority to determine that the operation of the
17 proposed district is administratively practicable and feasible unless at least
18 a majority of the votes cast and fifty-one per centum (51%) or more of the
19 acreage voted shall have been cast in favor of the creation of such district.

1 406. If the decision of the committee shall be in the affirmative, it shall
2 appoint three supervisors who shall act as a governing body of the district.

1 407. The duly appointed supervisors shall present to the Secretary of
2 State an application signed by them, which shall set forth (and such applica-
3 tion need contain no detail other than the mere recitals): (1) that a petition
4 for the creation of the district was filed with the State Soil Conservation
5 Committee pursuant to the provisions of this act, and that the proceedings
6 specified in this act were taken pursuant to such petition; that the application
7 is being filed in order to complete the organization of the district as a gov-
8 ernmental subdivision and a public body, corporate and politic, under this
9 act; and that the committee has appointed them as supervisors; (2) the
10 name and official residence of each of the supervisors, together with a certi-
11 fied copy of the appointments evidencing their right to office; (3) the term of
12 office of each of the supervisors; (4) the name which is proposed for the
13 district; and (5) the location of the principal office of the supervisors of the
14 district. The application shall be subscribed and sworn to by each of the said

15 supervisors before an officer authorized by the laws of this State to take and
16 certify oaths, who shall certify upon the application that he personally
17 knows the supervisors and knows them to be the officers as affirmed in the
18 application, and that each has subscribed thereto in the officer's presence. The
19 application shall be accompanied by a statement by the State Soil Conser-
20 vation Committee, which shall certify (and such statement need contain no
21 detail other than the mere recitals) that a petition was filed, notice issued,
22 and hearing held as aforesaid; that the committee did duly determine that
23 there is need, in the interest of the public health, safety, or welfare, for a
24 soil conservation district to function in the proposed territory and did de-
25 fine the boundaries thereof; that notice was given and a referendum held on
26 the question of the creation of such district, and that the result of such ref-
27 erendum showed a majority of the votes cast and fifty-one per centum (51%)
28 or more of the acreage voted in such referendum to be in favor of the crea-
29 tion of the district; that thereafter the committee did duly determine that the
30 operation of the proposed district is administratively practicable and feas-
31 ible. The said statement shall set forth the boundaries of the district as
32 they have been defined by the committee.

1 408. The Secretary of State shall examine the application and state-
2 ment and, if he finds that the name proposed for the district is not identi-
3 cal with that of any other soil conservation district of this State or so nearly
4 similar as to lead to confusion or uncertainty, he shall receive and file them
5 and shall record them in an appropriate book of record in his office. If the
6 Secretary of State shall find that the name proposed for the district is iden-
7 tical with that of any other soil conservation district of this State, or so
8 nearly similar as to lead to confusion and uncertainty, he shall certify such
9 fact to the State Soil Conservation Committee, which shall thereupon sub-
10 mit to the Secretary of State a new name for the said district, which shall not
11 be subject to such defects. Upon receipt of such new name, free of such de-
12 fects, the Secretary of State shall record the application and statement, with
13 the name so modified, in an appropriate book of record in his office. When the

14 application and statement have been made, filed, and recorded, as herein
15 provided, the district shall constitute a governmental subdivision of this
16 State and a public body corporate and politic. The Secretary of State shall
17 make and issue to the said supervisors a certificate, under the seal of the
18 State, of the due organization of the said district, and shall record such cer-
19 tificate with the application and statement. The boundaries of such district
20 shall include the territory as determined by the State Soil Conservation Com-
21 mittee as aforesaid, but in no event shall they include any area included
22 within the boundaries of another soil conservation district organized under
23 the provisions of this act.

1 409. After one year shall have expired from the date of entry of a deter-
2 mination by the State Soil Conservation Committee that operation of a pro-
3 posed district is not administratively practicable and feasible, and denial of
4 a petition pursuant to such determination, subsequent petitions may be filed
5 as aforesaid, and action taken thereon in accordance with the provisions of
6 this act.

1 410. Petitions for including additional territory within an existing dis-
2 trict may be filed with the State Soil Conservation Committee, and the pro-
3 ceedings herein provided for in the case of petitions to organize a district
4 shall be observed in the case of petitions for such inclusion. The committee
5 shall prescribe the form for such petitions, which shall be as nearly as may be
6 in the form prescribed in this act for petitions to organize a district. Where
7 the total number of land owners in the area proposed for inclusion shall be
8 less than twenty-five, the petition may be filed when signed by a majority of
9 the land owners of such area, representing fifty-one per centum (51%) or
10 more of the land area, and in such case no referendum need be held. In ref-
11 erenda upon petitions for such inclusion, all owners of land lying within the
12 proposed additional area shall be eligible to vote.

1 411. In any suit, action, or proceeding involving the validity or enforce-
2 ment of, or relating to, any contract, proceeding, or action of the district,
3 the district shall be deemed to have been established in accordance with the

4 provisions of this act upon proof of the issuance of the aforesaid certificate
5 by the Secretary of State. A copy of such certificate duly certified by the
6 Secretary of State shall be admissible in evidence in any such suit, action, or
7 proceeding and shall be proof of the filing and contents thereof.

ARTICLE V

APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPERVISORS

1 501. The governing body of the district shall consist of three super-
2 visors, appointed as provided hereinabove. The three supervisors shall be
3 legal residents and land owners of the district.

1 502. The supervisors shall designate a chairman and may, from time to
2 time, change such designation. The term of office of each supervisor shall
3 be at the pleasure of the State Committee. The selection of successors shall
4 be made in the same manner in which the retiring supervisor shall have
5 been selected. A majority of the supervisors shall constitute a quorum and
6 the concurrence of a majority in any matter within their duties shall be re-
7 quired for its determination. A supervisor shall be entitled to expenses,
8 and a per diem not to exceed five dollars (\$5.00) when engaged in the per-
9 formance of his duties.

1 503. The supervisors may employ, subject to the approval of the State
2 committee, technical experts, and such other officers, agents, and employees,
3 permanent and temporary, as they may require, and shall determine their
4 qualifications, duties, and compensation. The supervisors may delegate to
5 their chairman, to one or more supervisors, or to one or more agents, or
6 employees such powers and duties as they may deem proper. The super-
7 visors shall furnish to the State Soil Conservation Committee, upon request,
8 copies of such ordinances, rules, regulations, orders, contracts, forms, and
9 other documents as they shall adopt or employ, and such other information
10 concerning their activities as it may require in the performance of its duties
11 under this act.

1 504. The supervisors may provide for the execution of surety bonds for
2 any employees and officers who shall be entrusted with funds or property;

3 shall provide for the keeping of a full and accurate record of all proceed-
4 ings and of all resolutions, regulations, and orders issued or adopted; and
5 shall provide for an annual audit of the accounts of receipts and disburse-
6 ments.

ARTICLE VI

POWERS OF DISTRICTS AND SUPERVISORS

1 601. A soil conservation district organized under the provisions of this
2 act shall constitute a governmental subdivision of this State, and a public
3 body corporate and politic, exercising public powers, and such district, and
4 the supervisors thereof, shall have the following powers, in addition to others
5 granted in other sections of this act:

6 (a) To conduct surveys, investigations, and research relating to the
7 character of soil erosion and the preventive and control measures needed,
8 to publish the results of such surveys, investigations, or research, and to
9 disseminate information concerning such preventive and control measures;
10 *provided, however,* that in order to avoid duplication of research activities,
11 no district shall initiate any research program except in co-operation with
12 the Agricultural Experiment Stations or any other agency of this State, as
13 may be dealing with allied problems;

14 (b) To conduct in co-operation with existing State agencies, projects
15 within the district on lands owned or controlled by this State or any of its
16 agencies, with the co-operation of the agency administering and having juris-
17 diction thereof, and on any other lands within the district upon obtaining
18 the consent of the owner thereof, or those who have rights or interests in
19 such lands, in order to demonstrate methods of soil erosion control;

20 (c) To carry out preventive and control measures within the district
21 including but not limited to, engineering operations, methods of cultivation,
22 the growing of vegetation, changes in use of land, on lands owned or con-
23 trolled by this State or any of its agencies, with the co-operation of the
24 agency administering and having jurisdiction thereof, and on any other lands
25 within the district upon obtaining the consent of the owner of such lands or
26 the necessary rights or interests in such lands;

27 (d) To co-operate, or enter into agreements with, and within the limits
28 of appropriations duly made available to it by law, to furnish financial or
29 other aid to, any agency, governmental or otherwise, or any owner of lands
30 within the district, in the carrying on of erosion control and prevention
31 operations within the district, subject to such conditions as the supervisors
32 may deem necessary to advance the purposes of this act;

33 (e) To acquire machinery and other necessary personal property, to
34 make provision for its safe-keeping and to dispose of said property when
35 no longer needed;

36 (f) To make available, on such terms as it shall prescribe, to land own-
37 ers within the district, agricultural and engineering machinery and equip-
38 ment, as will assist such land owners to carry on operations upon their lands
39 for the conservation of soil resources and for the prevention and control of
40 soil erosion;

41 (g) To construct, improve, and maintain such structures as may be
42 necessary or convenient for the performance of any of the operations
43 authorized in this act;

44 (h) To develop comprehensive plans for the conservation of soil re-
45 sources and for the control and prevention of soil erosion within the district,
46 which plans shall specify in such detail as may be possible, the acts, pro-
47 cedures, performances, and avoidances which are necessary or desirable for
48 the effectuation of such plans, including the specifications of engineering
49 operations, methods of cultivation, the growing of vegetation, cropping pro-
50 grams, tillage practices, and changes in use of land; and to publish such
51 plans and information and bring them to the attention of owners of lands
52 within the district;

53 (i) To act as agent for the United States, or any of its agencies, or for
54 this State or any of its agencies, in connection with any soil-conservation,
55 erosion-control, or erosion-prevention project within its boundaries; to ac-
56 cept donations, gifts, and contributions in money, services, materials, or
57 otherwise, from the United States or any of its agencies, or from this State

58 or any of its agencies, and to use or expend such moneys, services,
59 materials, or other contributions in carrying on its operations;

60 (j) To sue and be sued in the name of the district; to have a seal, which
61 seal shall be judicially noticed; to have perpetual succession unless termi-
62 nated as hereinafter provided; to make and execute contracts and other
63 instruments, necessary or convenient to the exercise of its powers; to make,
64 and from time to time amend and repeal, rules and regulations, not incon-
65 sistent with this act, to carry into effect its purposes and powers;

66 (k) As a condition to the extending of any benefits under this act, to,
67 or the performance of work upon, any lands not owned or controlled by this
68 State or any of its agencies, the supervisors may require contributions in
69 money, services, materials, or otherwise to any operations conferring such
70 benefits, and may require land owners to enter into and perform such agree-
71 ments or covenants as to the permanent use of such lands as will tend to
72 prevent or control erosion thereon;

73 (l) No provisions with respect to the acquisition, operations, or disposi-
74 tion of property by other public bodies shall be applicable to a district
75 organized hereunder unless the Legislature shall specifically so state.

ARTICLE VII

ADOPTION OF LAND-USE REGULATIONS

1 701. The supervisors of any district shall have authority to formulate
2 regulations governing the use of lands within the district in the interest of
3 conserving soil and soil resources and preventing and controlling soil erosion.
4 The supervisors shall conduct such public meetings and public hearings upon
5 tentative regulations as may be necessary to assist them in this work. After
6 such hearings the supervisors shall draft such land use regulations as seem to
7 them necessary to carry out the provisions of this act. These regulations
8 shall then be submitted to the State Soil Conservation Committee which shall
9 approve, modify, or reject them within thirty days. If approved by the
10 committee or approved with modification, or if the committee shall take no

11 action within thirty days, the supervisors shall give due notice of the regula-
12 tions by publication and by posting. Any land owner may, for a period of
13 sixty days thereafter, file with the supervisors his objections to the adoption
14 of said regulations, said objections shall be made upon a form to be furnished
15 by the supervisors. If objections are filed by owners of at least forty per
16 centum (40%) of the acreage of the district, the supervisors shall not have
17 authority to enact said regulations, otherwise the supervisors shall there-
18 upon take such affirmative action as may be necessary to make such land use
19 regulations effective. Land use regulations adopted pursuant to the provi-
20 sions of this article shall be binding on all land owners within such district.

1 702. Any owner of land within such district may at any time file a peti-
2 tion with the supervisors asking that any or all of the land-use regulations
3 adopted by the supervisors under the provisions of this article shall be
4 amended, supplemented, or repealed. Land-use regulations adopted pursuant
5 to the provisions of this article shall not be amended, supplemented, or
6 repealed except in accordance with the procedure prescribed in this article
7 for adoption of land-use regulations.

1 703. Regulations to be adopted by the supervisors under the provisions
2 of this article shall relate solely to measures, operations and programs as
3 may assist conservation of soil resources and prevent or control soil erosion
4 in the district.

1 704. The regulations shall be uniform throughout the territory comprised
2 within the district except that the supervisors may classify the lands within
3 the district with reference to such factors as soil type, degree of slope, degree
4 of erosion threatened or existing, cropping and tillage practices in use, and
5 other relevant factors, and may provide regulations varying with the type
6 or class of land affected, but uniform as to all lands within each class or
7 type. Copies of land-use regulations adopted under the provisions of this
8 article shall be printed and made available to all owners and occupiers of
9 lands lying within the district.

ARTICLE VIII

ENFORCEMENT OF LAND-USE REGULATIONS

1 801. The supervisors shall have authority to go upon any lands within
2 the district to determine whether land-use regulations adopted under the
3 provisions of article seven of this act are being observed. Any land owner
4 who shall sustain damages from any violation of such regulations by any
5 other land owner may sue to recover damages at law from such other land
6 owner for such violation.

ARTICLE XIX

PERFORMANCE OF WORK UNDER THE REGULATIONS BY THE SUPERVISORS

1 901. Where the supervisors of any district shall find that any of the
2 provisions of land-use regulations adopted in accordance with the provisions
3 of article seven hereof are not being observed on particular lands, and that
4 such nonobservance tends to increase erosion on such lands and is interfer-
5 ing with the prevention or control of erosion on other lands within the dis-
6 trict, the supervisors may present to the Court of Chancery a bill of com-
7 plaint, duly verified, setting forth the adoption of the land-use regulations,
8 the failure of the defendant land owner to observe such regulations, and to
9 perform particular work, operations, or avoidances as required thereby, and
10 that such nonobservance tends to increase erosion on such lands and is
11 interfering with the prevention or control of erosion on other lands within the
12 district, and praying the court to require the defendant to perform the work,
13 operations, or avoidances within a reasonable time and to order that if the
14 defendant shall fail so to perform the supervisors may go on the land, per-
15 form the work or other operations or otherwise bring the condition of such
16 lands into conformity with the requirements of such regulations, and
17 recover the costs and expenses thereof, with interest, from the owner of such
18 land. Upon the presentation of such application the court shall cause
19 process to be issued against the defendant, and shall hear and determine
20 the case. The court may provide that upon the failure of the defendant to
21 initiate such performance within the time specified in the order of the court,

22 and to prosecute the same to completion with reasonable diligence, the super-
23 visors may enter upon the lands involved and perform the work or opera-
24 tions or otherwise bring the condition of such lands into conformity with the
25 requirements of the regulations and recover the costs and expenses thereof,
26 with interest at the rate of five per centum (5%) per annum, from the owner
27 of such lands.

1 902. The court shall retain jurisdiction of the case until after the work
2 has been completed. Upon completion of such work pursuant to such order
3 of the court the supervisors may file a petition with the court, a copy of
4 which shall be served upon the defendant in the case, stating the costs and
5 expenses sustained by them in the performance of the work and praying that
6 the amount thereof be included in the cost fixed against the defendant.

ARTICLE X

BOARD OF ADJUSTMENT

1 1001. Where the supervisors of any district organized under the provi-
2 sions of this act shall adopt land-use regulations in accordance with the pro-
3 visions of article seven hereof, they shall further provide for the establish-
4 ment of a board of adjustment. Such board of adjustment shall consist of
5 three (3) members, each to be appointed for a term of three (3) years, except
5½ that the members first appointed shall be appointed for terms of one, two and
6 three years, respectively. The members of each such board of adjustment shall
7 be appointed by the State Soil Conservation Committee, with the advice of
8 the supervisors of the district for which such board has been established,
9 and shall be removable, upon notice and hearing, for neglect of duty or mal-
10 feasance in office, but for no other reason, such hearing to be conducted by
11 the State Soil Conservation Committee. Vacancies in the board of adjust-
12 ment shall be filled in the same manner as original appointments, and shall
13 be for the unexpired term. Members of the State Soil Conservation Com-
14 mittee and the supervisors of the district shall be ineligible to appointment
15 as members of the board of adjustment during their tenure of such other
16 office. The members of the board of adjustment shall receive no compen-

17 sation for their services, but they shall be entitled to expenses, necessarily
18 incurred in the discharge of their duties. The supervisors shall pay the
19 necessary administrative and other expenses incurred by the board, upon the
20 certificate of the chairman of the board.

1 1002. The board of adjustment shall adopt rules to govern its procedures,
2 which rules shall be in accordance with the provisions of this act. The
3 board shall designate a chairman from among its members, and may, from
4 time to time, change such designation. Meetings shall be held at the call of
5 the chairman and at such other times as the board may determine. Any
6 two (2) members shall constitute a quorum. The chairman, or in his absence
7 such other member of the board as he may designate to serve as acting chair-
8 man, may administer oaths and compel the attendance of witnesses. All
9 meetings of the board shall be open to the public. The board shall keep a full
10 and accurate record of all proceedings, of all documents filed with it, and of
11 all orders entered, which shall be filed in the office of the board and shall be a
12 public record.

1 1003. Any land owner may file a petition with the board of adjustment
2 alleging that there are great practical difficulties or unnecessary hardship in
3 the way of his carrying out upon his lands the strict letter of the land-use
4 regulations approved by the supervisors, and praying the board to authorize
5 a variance from the terms of the land-use regulations in the application of
6 such regulations to the lands of the petitioner. Copies of such petition
7 shall be served by the petitioner upon the chairman of the supervisors of
8 the district within which his lands are located and upon the chairman of the
9 State Soil Conservation Committee. The board of adjustment shall fix a
10 time for the hearing of the petition and cause due notice to be given. The
11 supervisors of the district and the State Soil Conservation Committee shall
12 have the right to appear and be heard at such hearing. Any owner of lands
13 lying within the district who shall object to the authorizing of the variance
14 prayed for may intervene and become a party to the proceedings. Any party

15 to the hearing before the board may appear in person, by agent, or by at-
16 torney. If, upon the facts presented at such hearing, the board shall de-
17 termine that there are great practical difficulties or unnecessary hardship in
18 the way of applying the strict letter of any of the land-use regulations upon
19 the lands of the petitioner, it shall make and record such determination and
20 shall make and record findings of fact as to the specific conditions which
21 establish such great practical difficulties or unnecessary hardship. Upon the
22 basis of such findings and determination, the board shall have power by order
23 to authorize such variance from the terms of the land-use regulations, in their
24 application to the lands of the petitioner, as will relieve such great practical
25 difficulties or unnecessary hardship and will not be contrary to the public
26 interest, and such that the spirit of the land-use regulations shall be ob-
27 served, the public health, safety, or welfare secured, and substantial justice
28 done.

1 1004. Any petitioner aggrieved by an order of the board granting or
2 denying, in whole or in part, the relief sought of the supervisors of the dis-
3 trict, or any intervening party, may apply for a review of such order in the
4 Supreme Court, by filing in such court a petition praying that the order of
5 the board be modified or set aside.

ARTICLE XI

CO-OPERATION WITH STATE AGENCIES

1 1101. It shall be the duty of all agencies of this State which shall have
2 jurisdiction over, or be charged with the administration of, any State-owned
3 lands, and of any county, or other governmental subdivision of the State,
4 which shall have jurisdiction over, or be charged with the administration of,
5 any county-owned or other publicly owned lands, lying within the boundaries
6 of any district organized hereunder, to co-operate to the fullest extent com-
7 patible with the purposes for which such lands are held.

ARTICLE XII

DISCONTINUANCE OF DISTRICTS

1 1201. At any time after five (5) years after the organization of a dis-
2 trict under the provisions of this act, any twenty-five (25) owners of land
3 lying within the boundaries of such district may file a petition with the State
4 Soil Conservation Committee praying that the existence of the district be dis-
5 continued. Proceedings to determine whether a district shall be discontinued
6 shall follow so far as appropriate the procedure for the establishment of
7 the district as set forth in article four.

1 1202. Upon receipt from the State Soil Conservation Committee of a
2 certification that the committee has determined that the continued operation
3 of the district is not administratively practicable and feasible, pursuant to
4 the provisions of this article, the supervisors shall forthwith proceed to
5 terminate the affairs of the district. The supervisors shall dispose of all
6 property belonging to the district at public auction and shall pay over the
7 proceeds of such sale to be covered into the State treasury. The supervisors
8 shall thereupon file an application, duly verified, with the Secretary of State
9 for the discontinuance of such district, and shall transmit with such applica-
10 tion the certificate of the State Soil Conservation Committee setting forth
11 the determination of the committee that the continued operation of such dis-
12 trict is not administratively practicable and feasible. The application shall
13 recite that the property of the district has been disposed of and the proceeds
14 paid over as in this section provided, and shall set forth a full accounting of
15 such properties and proceeds of the sale. The Secretary of State shall
16 issue to the supervisors a certificate of dissolution and shall record such
17 certificate in an appropriate book of record in his office.

1 1203. Upon issuance of a certificate of dissolution under the provisions
2 of this article, all regulations theretofore adopted and in force within such
3 districts shall be of no further force and effect. All contracts theretofore
4 entered into, to which the district or supervisors are parties, shall remain
5 in force and effect for the period provided in such contracts. The State Soil

6 Conservation Committee shall be substituted for the district or supervisors
 7 as party to such contracts. The committee shall be entitled to all benefits and
 8 subject to all liabilities under such contracts and shall have the same right
 9 and liability to perform, to require performance, to sue and be sued thereon,
 10 and to modify or terminate such contracts by mutual consent or otherwise, as
 11 the supervisors of the district would have had. Such dissolution shall not
 12 affect the lien of any judgment entered under the provisions of article nine
 13 of this act, nor the pendency of any action instituted under the provisions of
 14 such section, and the committee shall succeed to all the rights and obligations
 15 of the district or supervisors as to such liens and actions.

1 1204. The State Soil Conservation Committee shall not entertain peti-
 2 tions for the discontinuance of any district nor conduct referenda upon such
 3 petitions nor make determinations pursuant to such petitions in accordance
 4 with the provisions of this act, more often than once in five (5) years.

ARTICLE XIII

APPROPRIATIONS

1 1301. For the purpose of carrying into effect the provisions of this act,
 2 there is hereby appropriated the sum of thirty-five thousand dollars
 3 (\$35,000.00).

ARTICLE XIV

SEPARABILITY CLAUSE

1 1401. If any provision of this act is held invalid, the remainder of the
 2 act shall not be affected thereby.

ARTICLE XV

EFFECTIVE DATE

1 1501. This act shall take effect July first, one thousand nine hundred and
 2 thirty-seven.

SPONSORS STATEMENT

The purpose of this act is indicated in the title. The soil resources are among the basic assets of the State and the preservation of these resources and the control of soil erosion are most vital to the public welfare. The enactment of this measure is necessary to enable this State to receive Federal aid now available for the States in a nation-wide program of soil conservation. Similar measures to secure such Federal aid are being adopted by other State legislatures, according to their respective requirements. This act has been drawn to meet the needs and conditions peculiar to the State.

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 509

STATE OF NEW JERSEY

INTRODUCED APRIL 19, 1937

By Mr. DEVOE

Referred to Committee on Judiciary

AN ACT concerning soil conservation and providing for the creation of soil conservation districts, to engage in conserving soil resources and preventing and controlling soil erosion; to establish the State Soil Conservation Committee, and to define its powers and duties; to define the powers and duties of soil conservation districts, and to provide for the exercise of such powers.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

ARTICLE I

DECLARATION OF POLICY

1 101. It is hereby declared to be the policy of the Legislature to provide
2 for the conservation of the soil and soil resources of this State, and for
3 the control and prevention of soil erosion.

ARTICLE II

DEFINITIONS

1 201. Wherever used or referred to in this act, unless a different mean-
2 ing clearly appears from the context:

3 (a) "District" or "Soil Conservation District" means a governmental
4 subdivision of this State, and a public body corporate and politic, organized
5 in accordance with the provisions of this act, for the purposes, with the
6 powers, and subject to the restrictions hereinafter set forth;

7 (b) "Supervisor" means one of the members of the governing body of
8 a district, appointed in accordance with the provisions of this act;

9 (c) "Committee" or "State Soil Conservation Committee" means the
10 agency created in article three of this act;

11 (d) "Petition" means a petition filed under the provisions of article
12 four of this act for the creation of a district;

13 (e) "State" means the State of New Jersey;

14 (f) "Agency of this State" includes the government of this State and
15 any subdivision, agency, or instrumentality, corporate or otherwise, of the
16 government of this State;

17 (g) "United States" or "Agencies of the United States" includes the
18 United States of America, the Soil Conservation Service of the United States
19 Department of Agriculture, and any other agency or instrumentality, cor-
20 porate or otherwise, of the United States of America;

21 (h) "Government" or "Governmental" includes the government of this
22 State, the Government of the United States, and any subdivision, agency or
23 instrumentality, corporate or otherwise, of either of them;

24 (i) "Land owner" includes any person, firm or corporation who shall
25 hold title to any lands lying within a district organized under the pro-
26 visions of this act;

27 (j) "Due Notice" means notice published at least twice, with an interval
28 of at least seven days between the two publication dates, in a newspaper
29 or other publication of general circulation within the appropriate area, or
30 if no such publication of general circulation be available, by posting at a
31 reasonable number of conspicuous places, within the appropriate area, such
32 posting to include, where possible, posting at public places where it may be
33 customary to post notices concerning county or municipal affairs generally.
34 At any hearing held pursuant to such notice, at the time and place desig-
35 nated in such notice, adjournment may be made from time to time, without
36 the necessity of renewing such notice for such adjourned dates.

ARTICLE III

STATE SOIL CONSERVATION COMMITTEE

1 301. There is hereby established, to serve as an agency of the State
2 and to perform the functions conferred upon it in this act, the State Soil
3 Conservation Committee. The Director of the Experiment Station, the
4 Director of the Extension Service, the Secretary for the Board of Agricul-
5 ture, the Director of the Department of Conservation and Development, the
6 Master of the State Grange and the President of the State Farm Bureau
7 of this State shall serve as members of this committee. The committee
8 shall invite the Secretary of Agriculture of the United States of America
9 to appoint one person, a resident of the State of New Jersey, to serve with
10 the above-mentioned members as a member of the committee. The com-
11 mittee shall keep a record of its official actions, shall adopt a seal, which
12 seal shall be judicially noticed, and may perform such acts, hold such public
13 hearings, and promulgate such rules and regulations as may be necessary
14 for the execution of its functions under this act.

1 302. The State Soil Conservation Committee may employ, subject to the
2 rules of the State Civil Service Commission, a qualified administrative
3 officer and such technical experts and such other agents and employees,
4 permanent and temporary, as it may require, and shall determine their
5 qualifications, duties and compensation of all employees. The committee
6 shall call upon the Attorney-General of the State for such legal services as
7 it may require for the purpose of carrying out any of its functions. The
8 committee may enter into co-operative agreements with any other State
9 agency.

1 303. The committee shall designate its chairman, and may, from time to
2 time, change such designation. A member of the committee shall hold office
3 so long as he shall retain the office by virtue of which he shall be serving
4 on the committee. A majority of the committee shall constitute a quorum,
5 and the concurrence of a majority in any matter within their duties shall
6 be required for its determination. The chairman and members of the com-

7 mittee shall receive no compensation for their services on the committee,
8 but shall be entitled to expenses, necessarily incurred in the discharge of
9 their duties on the committee. The committee shall provide for the execu-
10 tion of surety bonds for all employees and officers who shall be entrusted
11 with funds or property; shall provide for the keeping of a full and accurate
12 record of all proceedings and of all resolutions, regulations, and orders
13 issued or adopted; and shall provide for an annual audit of the accounts
14 of receipts and disbursements.

1 304. In addition to the duties and powers hereinafter conferred upon
2 the State Soil Conservation Committee, it shall have the following duties and
3 powers:

4 (a) To accept from the United States or any of its agencies, contribu-
5 tions in services, materials, money, or otherwise, and to use or expend such
6 contributions in the formulation of comprehensive plans for the conservation
7 of soil resources and the prevention of soil erosion within the State and to
8 conduct surveys, investigations, demonstrations, and research relating to soil
9 erosion and the preventive measures needed in areas subject to erosion by
10 wind and water, to publish results of any such surveys, investigations or
11 research and to disseminate information; *provided, however,* that in order
12 to avoid duplication of research, demonstration, and the dissemination of
13 information, no program of such activities shall be carried on except in co-
14 operation with the State Agricultural College and the State Agricultural
15 Experiment Stations, or such other State agency as may be dealing with
16 allied problems;

17 (b) To offer such assistance to the supervisors of Soil Conservation
18 Districts, organized as provided hereinafter as may be appropriate in the
19 carrying out of any of their powers and programs;

20 (c) To co-ordinate the programs of the several Soil Conservation Dis-
21 tricts organized hereunder;

22 (d) To secure the co-operation and assistance of the United States and
23 any of its agencies, and of agencies of this State, in the work of such dis-
24 tricts;

25 (e) To disseminate information throughout the State concerning the
26 activities and programs of the soil conservation districts organized here-
27 under, and to encourage the formation of such districts in areas where their
28 organization is desirable.

ARTICLE IV

CREATION OF SOIL CONSERVATION DISTRICTS

1 401. Any twenty-five (25) land owners lying within the limits of the
2 territory proposed to be organized into a district may file a petition with
3 the State Soil Conservation Committee asking that a soil conservation dis-
4 trict be organized to function in the territory described in the petition.

5 Such petition shall set forth:

6 (a) The proposed name of said district;

7 (b) That there is need, in the interest of the public health, safety, or
8 welfare, for a soil conservation district to function in the territory described
9 in the petition;

10 (c) A description of the territory proposed to be organized as a dis-
11 trict, which description shall not be required to be given by metes and
12 bounds or by legal subdivisions, but shall be deemed sufficient if generally
13 accurate;

14 (d) A request that the State Soil Conservation Committee duly define
15 the boundaries for such district; that a referendum be held within the ter-
16 ritory so defined on the question of the creation of a soil conservation dis-
17 trict in such territory; and that the committee determine that such a dis-
18 trict be created;

19 Where more than one petition is filed covering parts of the same terri-
20 tory, the State Soil Conservation Committee may consolidate all or any
21 such petitions.

1 402. Within thirty (30) days after such a petition has been filed with the
2 State Soil Conservation Committee, it shall cause due notice to be given of
3 a proposed hearing upon the question of the desirability and necessity, in the
4 interest of the public health, safety, or welfare, of the creation of such

5 district, upon the question of the appropriate boundaries to be assigned to
6 such district, upon the propriety of the petition and other proceedings taken
7 under this act, and upon all questions relevant to such inquiries. All land
8 owners within the limits of the territory described in the petition, and of
9 lands within any territory considered for addition to such described terri-
10 tory, and all other interested parties, shall have the right to attend such
11 hearings and to be heard. If it shall appear upon the hearing that it may
12 be desirable to include within the proposed district territory outside of the
13 area within which due notice of the hearing has been given, the hearing shall
14 be adjourned and due notice of further hearing shall be given throughout the
15 entire area considered for inclusion in the district, and such further hearing
16 held. After such hearing, if the committee shall determine, upon the facts
17 presented at such hearing and upon such other relevant facts and informa-
18 tion as may be available, that there is need, in the interest of the public
19 health, safety, or welfare, for a soil conservation district to function in the
20 territory considered at the hearing, it shall make and record such determina-
21 tion, and shall define, by metes and bounds or by legal subdivisions, or by
22 other clearly ascertainable boundaries, the boundaries of such district. The
23 territory to be included within such boundaries need not be contiguous. If the
24 committee shall determine after such hearing, that there is no need for a
25 soil conservation district to function in the territory considered at the hear-
26 ing, it shall make and record their determination and shall deny the petition.
27 After one year shall have expired from the date of the denial of any such
28 petition, subsequent petitions covering the same or substantially the same
29 territory may be filed as aforesaid and new hearings held and determinations
30 made thereon.

1 403. Within a reasonable time after the finding that there is need for the
2 organization of the proposed district and the determination of the boundaries
3 thereof, the committee shall hold a referendum within the proposed district
4 upon the proposition of the creation of the district, and shall cause notice
5 thereof to be given, as hereinafter provided. The question shall be submitted

6 by ballots upon which the words "For creation of a Soil Conservation Dis-
7 trict of the lands below described and lying in the county(ies) of
8, and" and "Against
9 creation of a Soil Conservation District of the lands below described and
10 lying in the county(ies) of and"
11 shall appear with a square before each proposition and a direction to insert
12 an \times mark in the square before one or the other of said propositions as the
13 voter may favor or oppose creation of such district. The ballot shall set
14 forth the boundaries of such proposed district as determined by the com-
15 mittee. All owners of land lying wholly or in part within the boundaries of
16 the proposed district shall be eligible to vote in such referendum. The State
17 committee shall prepare a list of land owners in the proposed district with
18 their addresses and the number of acres owned by each and post same in two
19 or more conspicuous places at least ten days before the date of holding said
20 referendum. It shall also mail a notice of said referendum to each land
21 owner whose name appears on said list at least ten days prior to the
22 referendum. The committee may correct errors and omissions in the poll list.
23 Only those whose names appear on said list may vote. Before a ballot is
24 cast the person conducting the referendum shall inscribe thereon the number
25 of acres owned by the voters, but no other distinguishing mark.

1 404. The committee shall pay all expenses for the issuance of such
2 notices and the conduct of such hearings and referenda and shall supervise
3 the conduct of such hearings and referenda. It shall issue appropriate
4 regulations governing the conduct of such hearings and referenda. No
5 informalities in the conduct of such referendum shall invalidate the result
6 thereof if notice thereof shall have been given as herein provided and said
7 referendum shall have been fairly conducted.

1 405. The committee shall publish the result of such referendum and shall
2 thereafter consider and determine whether the operation of the district
3 within the defined boundaries is administratively practicable and feasible. If
4 the committee shall determine that the operation of such district is admin-

5 istratively practicable and feasible, it shall record such determination and
6 shall proceed with the organization of the district, in the manner hereinafter
7 provided, otherwise it shall deny the petition. In making such determination
8 the committee may give due regard and weight to the attitudes of the owners
9 of lands lying within the defined boundaries, the number of land owners
10 eligible to vote in such referendum who shall have voted, the proportion of
11 the votes cast in such referendum in favor of the creation of the district to
12 the total number of votes cast, the approximate wealth and income of the land
13 owners of the proposed district, the probable expense of carrying on erosion-
14 control operations within such district, and such other economic and social
15 factors as may be relevant to such determination; *provided, however*, that the
16 committee shall not have authority to determine that the operation of the
17 proposed district is administratively practicable and feasible unless at least
18 a majority of the votes cast and fifty-one per centum (51%) or more of the
19 acreage voted shall have been cast in favor of the creation of such district.

1 406. If the decision of the committee shall be in the affirmative, it shall
2 appoint three supervisors who shall act as a governing body of the district.

1 407. The duly appointed supervisors shall present to the Secretary of
2 State an application signed by them, which shall set forth (and such applica-
3 tion need contain no detail other than the mere recitals): (1) that a petition
4 for the creation of the district was filed with the State Soil Conservation
5 Committee pursuant to the provisions of this act, and that the proceedings
6 specified in this act were taken pursuant to such petition; that the application
7 is being filed in order to complete the organization of the district as a gov-
8 ernmental subdivision and a public body, corporate and politic, under this
9 act; and that the committee has appointed them as supervisors; (2) the
10 name and official residence of each of the supervisors, together with a certi-
11 fied copy of the appointments evidencing their right to office; (3) the term of
12 office of each of the supervisors; (4) the name which is proposed for the
13 district; and (5) the location of the principal office of the supervisors of the
14 district. The application shall be subscribed and sworn to by each of the said

15 supervisors before an officer authorized by the laws of this State to take and
16 certify oaths, who shall certify upon the application that he personally
17 knows the supervisors and knows them to be the officers as affirmed in the
18 application, and that each has subscribed thereto in the officer's presence. The
19 application shall be accompanied by a statement by the State Soil Conser-
20 vation Committee, which shall certify (and such statement need contain no
21 detail other than the mere recitals) that a petition was filed, notice issued,
22 and hearing held as aforesaid; that the committee did duly determine that
23 there is need, in the interest of the public health, safety, or welfare, for a
24 soil conservation district to function in the proposed territory and did de-
25 fine the boundaries thereof; that notice was given and a referendum held on
26 the question of the creation of such district, and that the result of such ref-
27 erendum showed a majority of the votes cast and fifty-one per centum (51%)
28 or more of the acreage voted in such referendum to be in favor of the crea-
29 tion of the district; that thereafter the committee did duly determine that the
30 operation of the proposed district is administratively practicable and feas-
31 ible. The said statement shall set forth the boundaries of the district as
32 they have been defined by the committee.

1 408. The Secretary of State shall examine the application and state-
2 ment and, if he finds that the name proposed for the district is not identi-
3 cal with that of any other soil conservation district of this State or so nearly
4 similar as to lead to confusion or uncertainty, he shall receive and file them
5 and shall record them in an appropriate book of record in his office. If the
6 Secretary of State shall find that the name proposed for the district is iden-
7 tical with that of any other soil conservation district of this State, or so
8 nearly similar as to lead to confusion and uncertainty, he shall certify such
9 fact to the State Soil Conservation Committee, which shall thereupon sub-
10 mit to the Secretary of State a new name for the said district, which shall not
11 be subject to such defects. Upon receipt of such new name, free of such de-
12 fects, the Secretary of State shall record the application and statement, with
13 the name so modified, in an appropriate book of record in his office. When the

14 application and statement have been made, filed, and recorded, as herein
15 provided, the district shall constitute a governmental subdivision of this
16 State and a public body corporate and politic. The Secretary of State shall
17 make and issue to the said supervisors a certificate, under the seal of the
18 State, of the due organization of the said district, and shall record such cer-
19 tificate with the application and statement. The boundaries of such district
20 shall include the territory as determined by the State Soil Conservation Com-
21 mittee as aforesaid, but in no event shall they include any area included
22 within the boundaries of another soil conservation district organized under
23 the provisions of this act.

1 409. After one year shall have expired from the date of entry of a deter-
2 mination by the State Soil Conservation Committee that operation of a pro-
3 posed district is not administratively practicable and feasible, and denial of
4 a petition pursuant to such determination, subsequent petitions may be filed
5 as aforesaid, and action taken thereon in accordance with the provisions of
6 this act.

1 410. Petitions for including additional territory within an existing dis-
2 trict may be filed with the State Soil Conservation Committee, and the pro-
3 ceedings herein provided for in the case of petitions to organize a district
4 shall be observed in the case of petitions for such inclusion. The committee
5 shall prescribe the form for such petitions, which shall be as nearly as may be
6 in the form prescribed in this act for petitions to organize a district. Where
7 the total number of land owners in the area proposed for inclusion shall be
8 less than twenty-five, the petition may be filed when signed by a majority of
9 the land owners of such area, representing fifty-one per centum (51%) or
10 more of the land area, and in such case no referendum need be held. In ref-
11 erenda upon petitions for such inclusion, all owners of land lying within the
12 proposed additional area shall be eligible to vote.

1 411. In any suit, action, or proceeding involving the validity or enforce-
2 ment of, or relating to, any contract, proceeding, or action of the district,
3 the district shall be deemed to have been established in accordance with the

4 provisions of this act upon proof of the issuance of the aforesaid certificate
5 by the Secretary of State. A copy of such certificate duly certified by the
6 Secretary of State shall be admissible in evidence in any such suit, action, or
7 proceeding and shall be proof of the filing and contents thereof.

ARTICLE V

APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPERVISORS

1 501. The governing body of the district shall consist of three super-
2 visors, appointed as provided hereinabove. The three supervisors shall be
3 legal residents and land owners of the district.

1 502. The supervisors shall designate a chairman and may, from time to
2 time, change such designation. The term of office of each supervisor shall
3 be at the pleasure of the State Committee. The selection of successors shall
4 be made in the same manner in which the retiring supervisor shall have
5 been selected. A majority of the supervisors shall constitute a quorum and
6 the concurrence of a majority in any matter within their duties shall be re-
7 quired for its determination. A supervisor shall be entitled to expenses,
8 and a per diem not to exceed five dollars (\$5.00) when engaged in the per-
9 formance of his duties.

1 503. The supervisors may employ, subject to the approval of the State
2 committee, technical experts, and such other officers, agents, and employees,
3 permanent and temporary, as they may require, and shall determine their
4 qualifications, duties, and compensation. The supervisors may delegate to
5 their chairman, to one or more supervisors, or to one or more agents, or
6 employees such powers and duties as they may deem proper. The super-
7 visors shall furnish to the State Soil Conservation Committee, upon request,
8 copies of such ordinances, rules, regulations, orders, contracts, forms, and
9 other documents as they shall adopt or employ, and such other information
10 concerning their activities as it may require in the performance of its duties
11 under this act.

1 504. The supervisors may provide for the execution of surety bonds for
2 any employees and officers who shall be entrusted with funds or property;

3 shall provide for the keeping of a full and accurate record of all proceed-
4 ings and of all resolutions, regulations, and orders issued or adopted; and
5 shall provide for an annual audit of the accounts of receipts and disburse-
6 ments.

ARTICLE VI

POWERS OF DISTRICTS AND SUPERVISORS

1 601. A soil conservation district organized under the provisions of this
2 act shall constitute a governmental subdivision of this State, and a public
3 body corporate and politic, exercising public powers, and such district, and
4 the supervisors thereof, shall have the following powers, in addition to others
5 granted in other sections of this act:

6 (a) To conduct surveys, investigations, and research relating to the
7 character of soil erosion and the preventive and control measures needed,
8 to publish the results of such surveys, investigations, or research, and to
9 disseminate information concerning such preventive and control measures;
10 *provided, however,* that in order to avoid duplication of research activities,
11 no district shall initiate any research program except in co-operation with
12 the Agricultural Experiment Stations or any other agency of this State, as
13 may be dealing with allied problems;

14 (b) To conduct in co-operation with existing State agencies, projects
15 within the district on lands owned or controlled by this State or any of its
16 agencies, with the co-operation of the agency administering and having juris-
17 diction thereof, and on any other lands within the district upon obtaining
18 the consent of the owner thereof, or those who have rights or interests in
19 such lands, in order to demonstrate methods of soil erosion control;

20 (c) To carry out preventive and control measures within the district
21 including but not limited to, engineering operations, methods of cultivation,
22 the growing of vegetation, changes in use of land, on lands owned or con-
23 trolled by this State or any of its agencies, with the co-operation of the
24 agency administering and having jurisdiction thereof, and on any other lands
25 within the district upon obtaining the consent of the owner of such lands or
26 the necessary rights or interests in such lands;

27 (d) To co-operate, or enter into agreements with, and within the limits
28 of appropriations duly made available to it by law, to furnish financial or
29 other aid to, any agency, governmental or otherwise, or any owner of lands
30 within the district, in the carrying on of erosion control and prevention
31 operations within the district, subject to such conditions as the supervisors
32 may deem necessary to advance the purposes of this act;

33 (e) To acquire machinery and other necessary personal property, to
34 make provision for its safe-keeping and to dispose of said property when
35 no longer needed;

36 (f) To make available, on such terms as it shall prescribe, to land own-
37 ers within the district, agricultural and engineering machinery and equip-
38 ment, as will assist such land owners to carry on operations upon their lands
39 for the conservation of soil resources and for the prevention and control of
40 soil erosion;

41 (g) To construct, improve, and maintain such structures as may be
42 necessary or convenient for the performance of any of the operations
43 authorized in this act;

44 (h) To develop comprehensive plans for the conservation of soil re-
45 sources and for the control and prevention of soil erosion within the district,
46 which plans shall specify in such detail as may be possible, the acts, pro-
47 cedures, performances, and avoidances which are necessary or desirable for
48 the effectuation of such plans, including the specifications of engineering
49 operations, methods of cultivation, the growing of vegetation, cropping pro-
50 grams, tillage practices, and changes in use of land; and to publish such
51 plans and information and bring them to the attention of owners of lands
52 within the district;

53 (i) To act as agent for the United States, or any of its agencies, or for
54 this State or any of its agencies, in connection with any soil-conservation,
55 erosion-control, or erosion-prevention project within its boundaries; to ac-
56 cept donations, gifts, and contributions in money, services, materials, or
57 otherwise, from the United States or any of its agencies, or from this State

58 or any of its agencies, and to use or expend such moneys, services,
59 materials, or other contributions in carrying on its operations;

60 (j) To sue and be sued in the name of the district; to have a seal, which
61 seal shall be judicially noticed; to have perpetual succession unless termi-
62 nated as hereinafter provided; to make and execute contracts and other
63 instruments, necessary or convenient to the exercise of its powers; to make,
64 and from time to time amend and repeal, rules and regulations, not incon-
65 sistent with this act, to carry into effect its purposes and powers;

66 (k) As a condition to the extending of any benefits under this act, to,
67 or the performance of work upon, any lands not owned or controlled by this
68 State or any of its agencies, the supervisors may require contributions in
69 money, services, materials, or otherwise to any operations conferring such
70 benefits, and may require land owners to enter into and perform such agree-
71 ments or covenants as to the permanent use of such lands as will tend to
72 prevent or control erosion thereon;

73 (l) No provisions with respect to the acquisition, operations, or disposi-
74 tion of property by other public bodies shall be applicable to a district
75 organized hereunder unless the Legislature shall specifically so state.

ARTICLE VII

ADOPTION OF LAND-USE REGULATIONS

1 701. The supervisors of any district shall have authority to formulate
2 regulations governing the use of lands within the district in the interest of
3 conserving soil and soil resources and preventing and controlling soil erosion.
4 The supervisors shall conduct such public meetings and public hearings upon
5 tentative regulations as may be necessary to assist them in this work. After
6 such hearings the supervisors shall draft such land use regulations as seem to
7 them necessary to carry out the provisions of this act. These regulations
8 shall then be submitted to the State Soil Conservation Committee which may
9 within thirty days suggest amendments thereto for consideration by the
10-11 supervisors. Thereafter the supervisors shall give due notice of the regula-

12 tions by publication and by posting. Any land owner may, for a period of
13 sixty days thereafter, file with the supervisors his objections to the adoption
14 of said regulations, said objections shall be made upon a form to be furnished
15 by the supervisors. If objections are filed by owners of at least twenty-five
16 per centum (25%) of the acreage of the district, the supervisors shall not have
17 authority to enact said regulations, otherwise the supervisors shall there-
18 upon take such affirmative action as may be necessary to make such land use
19 regulations effective. Land use regulations adopted pursuant to the provi-
20 sions of this article shall be binding on all land owners within such district.

1 702. Any owner of land within such district may at any time file a peti-
2 tion with the supervisors asking that any or all of the land-use regulations
3 adopted by the supervisors under the provisions of this article shall be
4 amended, supplemented, or repealed. Land-use regulations adopted pursuant
5 to the provisions of this article shall not be amended, supplemented, or
6 repealed except in accordance with the procedure prescribed in this article
7 for adoption of land-use regulations.

1 703. Regulations to be adopted by the supervisors under the provisions
2 of this article may include:

3 (a) Provisions requiring the construction of terraces, terrace outlets,
4 check dams, dikes, ponds, ditches, and other necessary structures;

5 (b) Provisions requiring observance of particular methods of cultiva-
6 tion including contour cultivating, contour furrowing, lister furrowing, sow-
7 ing, planting, strip cropping, seeding, and planting of lands to water-con-
8 serving and erosion-preventing plants, trees and grasses, forestation and
9 reforestation;

10 (c) Specifications of cropping programs and tillage practices to be ob-
11 served;

12 (d) Provisions limiting the cultivation of highly erosive areas or of
13 areas on which erosion may not be adequately controlled if cultivation is
14 carried on;

15 (e) Provisions for such other means, measures, operations and pro-

16 grams as may assist conservation of soil resources and prevent or control
17 soil erosion in the district.

1 704. The regulations shall be uniform throughout the territory comprised
2 within the district except that the supervisors may classify the lands within
3 the district with reference to such factors as soil type, degree of slope, degree
4 of erosion threatened or existing, cropping and tillage practices in use, and
5 other relevant factors, and may provide regulations varying with the type
6 or class of land affected, but uniform as to all lands within each class or
7 type. Copies of land-use regulations adopted under the provisions of this
8 article shall be printed and made available to all owners and occupiers of
9 lands lying within the district.

ARTICLE VIII

ENFORCEMENT OF LAND-USE REGULATIONS

1 801. The supervisors shall have authority to go upon any lands within
2 the district to determine whether land-use regulations adopted under the
3 provisions of article seven of this act are being observed. Any land owner
4 who shall sustain damages from any violation of such regulations by any
5 other land owner may sue to recover damages at law from such other land
6 owner for such violation.

ARTICLE XIX

PERFORMANCE OF WORK UNDER THE REGULATIONS BY THE SUPERVISORS

1 901. Where the supervisors of any district shall find that any of the
2 provisions of land-use regulations adopted in accordance with the provisions
3 of article seven hereof are not being observed on particular lands, and that
4 such nonobservance tends to increase erosion on such lands and is interfer-
5 ing with the prevention or control of erosion on other lands within the dis-
6 trict, the supervisors may present to the Court of Chancery a bill of com-
7 plaint, duly verified, setting forth the adoption of the land-use regulations,
8 the failure of the defendant land owner to observe such regulations, and to
9 perform particular work, operations, or avoidances as required thereby, and
10 that such nonobservance tends to increase erosion on such lands and is

11 interfering with the prevention or control of erosion on other lands within the
12 district, and praying the court to require the defendant to perform the work,
13 operations, or avoidances within a reasonable time and to order that if the
14 defendant shall fail so to perform the supervisors may go on the land, per-
15 form the work or other operations or otherwise bring the condition of such
16 lands into conformity with the requirements of such regulations, and
17 recover the costs and expenses thereof, with interest, from the owner of such
18 land. Upon the presentation of such application the court shall cause
19 process to be issued against the defendant, and shall hear and determine
20 the case. The court may provide that upon the failure of the defendant to
21 initiate such performance within the time specified in the order of the court,
22 and to prosecute the same to completion with reasonable diligence, the super-
23 visors may enter upon the lands involved and perform the work or opera-
24 tions or otherwise bring the condition of such lands into conformity with the
25 requirements of the regulations and recover the costs and expenses thereof,
26 with interest at the rate of five per centum (5%) per annum, from the owner
27 of such lands.

1 902. The court shall retain jurisdiction of the case until after the work
2 has been completed. Upon completion of such work pursuant to such order
3 of the court the supervisors may file a petition with the court, a copy of
4 which shall be served upon the defendant in the case, stating the costs and
5 expenses sustained by them in the performance of the work and praying that
6 the amount thereof be included in the cost fixed against the defendant.

ARTICLE X

BOARD OF ADJUSTMENT

1 1001. Where the supervisors of any district organized under the provi-
2 sions of this act shall adopt land-use regulations in accordance with the pro-
3 visions of article seven hereof, they shall further provide for the establish-
4 ment of a board of adjustment. Such board of adjustment shall consist of
5 three (3) members, each to be appointed for a term of three (3) years, except
5½ that the members first appointed shall be appointed for terms of one, two and

6 three years, respectively. The members of each such board of adjustment shall
7 be appointed by the State Soil Conservation Committee, with the advice of
8 the supervisors of the district for which such board has been established,
9 and shall be removable, upon notice and hearing, for neglect of duty or mal-
10 feasance in office, but for no other reason, such hearing to be conducted by
11 the State Soil Conservation Committee. Vacancies in the board of adjust-
12 ment shall be filled in the same manner as original appointments, and shall
13 be for the unexpired term. Members of the State Soil Conservation Com-
14 mittee and the supervisors of the district shall be ineligible to appointment
15 as members of the board of adjustment during their tenure of such other
16 office. The members of the board of adjustment shall receive no compen-
17 sation for their services, but they shall be entitled to expenses, necessarily
18 incurred in the discharge of their duties. The supervisors shall pay the
19 necessary administrative and other expenses incurred by the board, upon the
20 certificate of the chairman of the board.

1 1002. The board of adjustment shall adopt rules to govern its procedures,
2 which rules shall be in accordance with the provisions of this act. The
3 board shall designate a chairman from among its members, and may, from
4 time to time, change such designation. Meetings shall be held at the call of
5 the chairman and at such other times as the board may determine. Any
6 two (2) members shall constitute a quorum. The chairman, or in his absence
7 such other member of the board as he may designate to serve as acting chair-
8 man, may administer oaths and compel the attendance of witnesses. All
9 meetings of the board shall be open to the public. The board shall keep a full
10 and accurate record of all proceedings, of all documents filed with it, and of
11 all orders entered, which shall be filed in the office of the board and shall be a
12 public record.

1 1003. Any land owner may file a petition with the board of adjustment
2 alleging that there are great practical difficulties or unnecessary hardship in
3 the way of his carrying out upon his lands the strict letter of the land-use

4 regulations approved by the supervisors, and praying the board to authorize
5 a variance from the terms of the land-use regulations in the application of
6 such regulations to the lands of the petitioner. Copies of such petition
7 shall be served by the petitioner upon the chairman of the supervisors of
8 the district within which his lands are located and upon the chairman of the
9 State Soil Conservation Committee. The board of adjustment shall fix a
10 time for the hearing of the petition and cause due notice to be given. The
11 supervisors of the district and the State Soil Conservation Committee shall
12 have the right to appear and be heard at such hearing. Any owner of lands
13 lying within the district who shall object to the authorizing of the variance
14 prayed for may intervene and become a party to the proceedings. Any party
15 to the hearing before the board may appear in person, by agent, or by at-
16 torney. If, upon the facts presented at such hearing, the board shall de-
17 termine that there are great practical difficulties or unnecessary hardship in
18 the way of applying the strict letter of any of the land-use regulations upon
19 the lands of the petitioner, it shall make and record such determination and
20 shall make and record findings of fact as to the specific conditions which
21 establish such great practical difficulties or unnecessary hardship. Upon the
22 basis of such findings and determination, the board shall have power by order
23 to authorize such variance from the terms of the land-use regulations, in their
24 application to the lands of the petitioner, as will relieve such great practical
25 difficulties or unnecessary hardship and will not be contrary to the public
26 interest, and such that the spirit of the land-use regulations shall be ob-
27 served, the public health, safety, or welfare secured, and substantial justice
28 done.

1 1004. Any petitioner aggrieved by an order of the board granting or
2 denying, in whole or in part, the relief sought of the supervisors of the dis-
3 trict, or any intervening party, may apply for a review of such order in the
4 Supreme Court, by filing in such court a petition praying that the order of
5 the board be modified or set aside.

ARTICLE XI

CO-OPERATION WITH STATE AGENCIES

1 1101. It shall be the duty of all agencies of this State which shall have
2 jurisdiction over, or be charged with the administration of, any State-owned
3 lands, and of any county, or other governmental subdivision of the State,
4 which shall have jurisdiction over, or be charged with the administration of,
5 any county-owned or other publicly owned lands, lying within the boundaries
6 of any district organized hereunder, to co-operate to the fullest extent com-
7 patible with the purposes for which such lands are held.

ARTICLE XII

DISCONTINUANCE OF DISTRICTS

1 1201. At any time after five (5) years after the organization of a dis-
2 trict under the provisions of this act, any twenty-five (25) owners of land
3 lying within the boundaries of such district may file a petition with the State
4 Soil Conservation Committee praying that the existence of the district be dis-
5 continued. Proceedings to determine whether a district shall be discontinued
6 shall follow so far as appropriate the procedure for the establishment of
7 the district as set forth in article four.

1 1202. Upon receipt from the State Soil Conservation Committee of a
2 certification that the committee has determined that the continued operation
3 of the district is not administratively practicable and feasible, pursuant to
4 the provisions of this article, the supervisors shall forthwith proceed to
5 terminate the affairs of the district. The supervisors shall dispose of all
6 property belonging to the district at public auction and shall pay over the
7 proceeds of such sale to be covered into the State treasury. The supervisors
8 shall thereupon file an application, duly verified, with the Secretary of State
9 for the discontinuance of such district, and shall transmit with such applica-
10 tion the certificate of the State Soil Conservation Committee setting forth
11 the determination of the committee that the continued operation of such dis-
12 trict is not administratively practicable and feasible. The application shall
13 recite that the property of the district has been disposed of and the proceeds
14 paid over as in this section provided, and shall set forth a full accounting of

15 such properties and proceeds of the sale. The Secretary of State shall
16 issue to the supervisors a certificate of dissolution and shall record such
17 certificate in an appropriate book of record in his office.

1 1203. Upon issuance of a certificate of dissolution under the provisions
2 of this article, all regulations theretofore adopted and in force within such
3 districts shall be of no further force and effect. All contracts theretofore
4 entered into, to which the district or supervisors are parties, shall remain
5 in force and effect for the period provided in such contracts. The State Soil
6 Conservation Committee shall be substituted for the district or supervisors
7 as party to such contracts. The committee shall be entitled to all benefits and
8 subject to all liabilities under such contracts and shall have the same right
9 and liability to perform, to require performance, to sue and be sued thereon,
10 and to modify or terminate such contracts by mutual consent or otherwise, as
11 the supervisors of the district would have had. Such dissolution shall not
12 affect the lien of any judgment entered under the provisions of article nine
13 of this act, nor the pendency of any action instituted under the provisions of
14 such section, and the committee shall succeed to all the rights and obligations
15 of the district or supervisors as to such liens and actions.

1 1204. The State Soil Conservation Committee shall not entertain peti-
2 tions for the discontinuance of any district nor conduct referenda upon such
3 petitions nor make determinations pursuant to such petitions in accordance
4 with the provisions of this act, more often than once in five (5) years in
5 the case of any particular district.

ARTICLE XIII

APPROPRIATIONS

1 1301. For the purpose of carrying into effect the provisions of this act,
2 there is hereby appropriated the sum of thirty-five thousand dollars
3 (\$35,000.00).

ARTICLE XIV

SEPARABILITY CLAUSE

1 1401. If any provision of this act is held invalid, the remainder of the
2 act shall not be affected thereby.

ARTICLE XV

EFFECTIVE DATE

1 1501. This act shall take effect July first, one thousand nine hundred and
2 thirty-seven.