

House Bill 777

In The House

February 16, 1981	Introduced and referred to Committee on Agriculture.
February 17, 1981	Fiscal note requested.
February 20, 1981	Fiscal note returned.
	Committee recommend bill do pass as amended.
February 21, 1981	Bill printed and placed on members' desks.
February 23, 1981	Second reading do pass.
February 24, 1981	Correctly engrossed.
February 25, 1981	Third reading passed.

In The Senate

March 3, 1981	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
March 16, 1981	Committee recommend bill not concurred.

In The House

March 17, 1981	Returned from Senate not concurred.
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1 House BILL NO. 777
2 INTRODUCED BY Donalysa Kelly

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PRESERVE
5 AGRICULTURAL LANDS BY PERMITTING A PUBLIC BODY TO ACQUIRE A
6 CONSERVATION EASEMENT IN VIABLE AGRICULTURAL LANDS; TO
7 INCLUDE PRESERVATION OF AGRICULTURAL LANDS WITHIN THE
8 PURPOSES OF CONSERVATION DISTRICTS; AMENDING SECTIONS
9 76-6-101 THROUGH 76-6-104, 76-6-106, 76-6-203, 76-15-101,
10 76-15-402, AND 76-15-403, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 76-6-101, MCA, is amended to read:
14 "76-6-101. Short title. This chapter may be cited as
15 the "Open-Space and Agricultural Land and Voluntary
16 Conservation Easement Act"."

17 Section 2. Section 76-6-102, MCA, is amended to read:
18 "76-6-102. Findings and policy. The legislature finds
19 that:

20 (1) the rapid growth and spread of urban development
21 are creating critical problems of service and finance for
22 the state and local governments;

23 (2) the present and future rapid population growth in
24 urban areas is creating severe problems of urban and
25 suburban living;

1 (3) this population spread and its attendant
2 development are disrupting and altering the remaining
3 natural areas, biotic communities, and geological and
4 geographical formations and thereby providing the potential
5 for the destruction of scientific, educational, aesthetic,
6 and ecological values;

7 ~~(4) this scattered development is extending into good
8 farm areas and results in farm use restrictions, rising farm
9 taxes, and rising hopes for speculative gains, which
10 discourages investment in farm improvements;~~

11 ~~(4)(5) the present and future rapid population spread
12 throughout the state of Montana into its open spaces is
13 creating serious problems of lack of open space and
14 overcrowding of the land and placing many of the viable
15 agricultural lands in jeopardy of being lost for any
16 agricultural purposes;~~

17 ~~(5)(6) to lessen congestion and to preserve viable
18 agricultural land and natural, ecological, geographical, and
19 geological elements, the provision and preservation of
20 open-space lands are necessary to secure park, recreational,
21 historic, and scenic areas; and to conserve the land, its
22 biotic communities, its natural resources, and its
23 geological and geographical elements in their natural state;
24 and to conserve and encourage the development and
25 improvement of its agricultural lands for the production of~~

1 food and other agricultural products;

2 ~~(6)(7)~~ the acquisition or designation of interests and
3 rights in real property by certain qualifying private
4 organizations and by public bodies to provide or preserve
5 open-space land and viable agricultural land is essential to
6 the solution of these problems, the accomplishment of these
7 purposes, and the health and welfare of the citizens of the
8 state;

9 ~~(7)(8)~~ the exercise of authority to acquire or
10 designate interests and rights in real property to provide
11 or preserve open-space land and viable agricultural land and
12 the expenditure of public funds for these purposes would be
13 for a public purpose; and

14 ~~(8)(9)~~ the statutory provision enabling certain
15 qualifying private organizations to acquire interests and
16 rights in real property to provide or preserve open-space
17 land and viable agricultural land is in the public
18 interest."

19 Section 3. Section 76-6-103, MCA, is amended to read:
20 "76-6-103. Purposes. In accordance with the findings
21 in 76-6-102, the legislature states that the purposes of
22 this chapter are to:

23 (1) authorize and enable public bodies and certain
24 qualifying private organizations voluntarily to provide for
25 the preservation of native plants or animals, biotic

1 communities, or geological or geographical formations of
2 scientific, aesthetic, or educational interest;

3 (2) provide for the preservation of other significant
4 open-space land or viable agricultural land anywhere in the
5 state either in perpetuity or for a term of years; and

6 (3) encourage private participation in such a program
7 by establishing the policy to be utilized in determining the
8 property tax to be levied upon the real property which is
9 subject to the provisions of this chapter."

10 Section 4. Section 76-6-104, MCA, is amended to read:

11 "76-6-104. Definitions. The following terms whenever
12 used or referred to in this chapter shall have the following
13 meanings unless a different meaning is clearly indicated by
14 the context:

15 (1) "Agricultural production" means the production for
16 commercial purposes of all crops, livestock, and livestock
17 products, including but not limited to the following:

18 (a) field crops, including corn, wheat, oats, rye,
19 barley, hay, and potatoes;

20 (b) fruits, including apples, peaches, cherries, and
21 berries;

22 (c) vegetables, including tomatoes, snap beans,
23 cabbage, carrots, beets, and onions;

24 (d) horticultural specialties, including ornamental
25 shrubs, trees, and flowers;

1 (e) livestock and livestock products, including
 2 cattle, sheep, hogs, goats, horses, hens, ducks, fur-bearing
 3 animals, milk, butter, cheese, meat, eggs, and furs; and

4 (f) beekeeping.

5 ~~(1)~~(2) "Comprehensive planning" means planning for
 6 development and shall include:

7 (a) preparation of general physical plans with respect
 8 to the pattern and intensity of land use and the provision
 9 of public facilities, including transportation facilities,
 10 together with long-range fiscal plans for such development
 11 as a guide for long-range development;

12 (b) programming and financing plans for capital
 13 improvements;

14 (c) coordination of all related plans and planned
 15 activities at both the intragovernmental and
 16 intergovernmental levels; and

17 (d) preparation of regulatory and administrative
 18 measures in support of the foregoing.

19 ~~(2)~~(3) "Conservation easement" means an easement or
 20 restriction, running with the land and assignable, whereby
 21 an owner of land voluntarily relinquishes to the holder of
 22 such easement or restriction any or all rights to construct
 23 improvements upon the land or to substantially alter the
 24 natural character of the land or to permit the construction
 25 of improvements upon the land or the substantial alteration

1 of the natural character of the land, except as this right
 2 is expressly reserved in the instruments evidencing the
 3 easement or restriction.

4 (4) "Development of agricultural land" means to
 5 develop, construct on, sell, lease, or otherwise improve the
 6 agricultural land for uses that result in rendering such
 7 land no longer agricultural land, but does not include:

8 (a) improvements to agricultural land to preserve,
 9 maintain, operate, or continue such land as agricultural
 10 land, including but not limited to construction thereon of
 11 residences for persons directly incidental to farm
 12 operation, buildings for animals, roadside stands and farm
 13 markets for sale of products, facilities for the storing of
 14 equipment and products or processing thereof, or such other
 15 improvements, activities, and uses thereon as may be
 16 directly or incidentally related to the operation of the
 17 agricultural enterprise;

18 (b) extraction of gravel or like natural elements for
 19 purposes directly or incidentally related to the operation
 20 of the agricultural enterprise; or

21 (c) use of the existing water and mineral rights,
 22 exclusive of gravel, of the fee owner.

23 ~~(3)~~(5) "Open-space land" means any land which is
 24 provided or preserved for:

25 (a) for park or recreational purposes;

1 (b) ~~for~~ conservation of land or other natural
2 resources;

3 (c) ~~for~~ historic or scenic purposes; or

4 (d) ~~assisting to assist~~ in the shaping of the
5 character, direction, and timing of community development;
6 or

7 ~~(a) as viable agricultural land.~~

8 ~~(6) "Owner" means any person, corporation,~~
9 ~~partnership, trust, municipal corporation, or public utility~~
10 ~~or any other private or public entity that is the fee simple~~
11 ~~owner of agricultural land or that, by operation of law, has~~
12 ~~the power to exercise the rights of a fee simple owner.~~

13 ~~†4†(7) "Public body" means the state, counties,~~
14 ~~cities, towns, and other municipalities, and conservation~~
15 ~~districts.~~

16 ~~†5†(8) "Qualified private organization" means a~~
17 ~~private organization:~~

18 (a) competent to own interests in real property;

19 (b) which qualifies and holds a general tax exemption
20 under the federal Internal Revenue Code, section 501(c); and

21 (c) whose organizational purposes are designed to
22 further the purposes of this chapter.

23 ~~†6†(9) "Urban area" means any area which is urban in~~
24 ~~character, including surrounding areas which form an~~
25 ~~economic and socially related region, taking into~~

1 consideration such factors as present and future population
2 trends and patterns of urban growth, location of
3 transportation facilities and systems, and distribution of
4 industrial, commercial, residential, governmental,
5 institutional, and other activities.

6 ~~(10) "Viable agricultural land" means land highly~~
7 ~~suitable for agricultural production, that will continue to~~
8 ~~be economically feasible for such use if real estate taxes,~~
9 ~~farm use restrictions, and speculative activities are~~
10 ~~limited to levels approximating those in commercial~~
11 ~~agricultural areas not influenced by the proximity of urban~~
12 ~~and related nonagricultural development."~~

13 Section 5. Section 76-6-106, MCA, is amended to read:

14 "76-6-106. Acquisition and designation of real
15 property by public body. (1) To carry out the purposes of
16 this chapter, any public body may:

17 ~~††(a)~~ acquire by purchase, gift, devise, bequest, or
18 grant title to or any interests or rights in real property,
19 including land and water, that will provide a means for the
20 preservation or provision of significant open-space land or
21 ~~viable agricultural land~~ or the preservation of native
22 plants or animals, biotic communities, or geological or
23 geographical formations of scientific, aesthetic, or
24 educational interest, or both;

25 ~~††(b)~~ designate any real property, including land and

1 water, in which it has an interest to be retained and used
 2 for the preservation and provision of significant open-space
 3 land or viable agricultural land or the preservation of
 4 native plants or animals, biotic communities, or geological
 5 or geographical formations of scientific, aesthetic, or
 6 educational interests, or both.

7 ~~(2) In addition to those in subsection (1), the~~
 8 ~~factors to be considered by the public body in deciding~~
 9 ~~whether to make such an acquisition or designation of~~
 10 ~~agricultural land are:~~

11 ~~(a) the probability that the land will be sold for~~
 12 ~~nonagricultural purposes;~~

13 ~~(b) the degree to which it may be considered viable~~
 14 ~~agricultural land;~~

15 ~~(c) the degree to which such acquisition would~~
 16 ~~contribute to preservation of the agricultural potential of~~
 17 ~~the state; and~~

18 ~~(d) the cost of acquiring the easement."~~

19 Section 6. Section 76-6-203, MCA, is amended to read:

20 "76-6-203. Types of permissible easements. Easements
 21 or restrictions under this chapter may prohibit or limit any
 22 or all of the following:

23 (1) structures--construction or placing of buildings,
 24 camping trailers, house trailers, mobile homes, roads, signs,
 25 billboards or other advertising, utilities, or other

1 structures on or above the ground;

2 (2) landfill--dumping or placing of soil or other
 3 substance or material as landfill or dumping or placing of
 4 trash, waste, or unsightly or offensive materials;

5 (3) vegetation--removal or destruction of trees,
 6 shrubs, or other vegetation;

7 (4) loam, gravel, etc.--excavation, dredging, or
 8 removal of loam, peat, gravel, soil, rock, or other material
 9 substance;

10 (5) surface use--surface use except for such purposes
 11 permitting the land or water area to remain predominantly in
 12 its existing condition;

13 (6) acts detrimental to conservation--activities
 14 detrimental to drainage, flood control, water conservation,
 15 erosion control, soil conservation, or fish and wildlife
 16 habitat and preservation;

17 (7) subdivision of land--subdivision of land as
 18 defined in 76-3-103, 76-3-104, and 76-3-202;

19 (8) other acts--other acts or uses detrimental to such
 20 retention of land or water areas in their existing
 21 conditions;

22 ~~(9) development of agricultural land--development of~~
 23 ~~agricultural land as defined in [section 4]."~~

24 Section 7. Section 76-15-101, MCA, is amended to read:

25 "76-15-101. Legislative determinations. It is hereby

1 declared, as a matter of legislative determination:

2 (1) that the farm and grazing lands of the state of
3 Montana are among the basic assets of the state and that the
4 preservation of these lands is necessary to protect and
5 promote the health, safety, and general welfare of its
6 people; that improper land use practices have caused and
7 have contributed to and are now causing and contributing to
8 a progressively more serious erosion of the farm and grazing
9 lands of this state by wind and water; that the breaking of
10 natural grass, plant, and forest cover has interfered with
11 the natural factors of soil stabilization, causing loosening
12 of soil and exhaustion of humus and developing a soil
13 condition that favors erosion; that the topsoil is being
14 blown and washed out of fields and pastures; that there has
15 been an accelerated washing of sloping fields; that these
16 processes of erosion by wind and water speed up with removal
17 of absorptive topsoil, causing exposure of less absorptive
18 and less protective but more erosive subsoil; that failure
19 by any land occupier to conserve the soil and control
20 erosion upon his lands causes a washing and blowing of soil
21 and water from his lands onto other lands and makes the
22 conservation of soil and control of erosion on such other
23 lands difficult or impossible;

24 (2) that the consequences of such soil erosion in the
25 form of soil blowing and soil washing are the silting and

1 sedimentation of stream channels, reservoirs, dams, and
2 ditches; the loss of fertile soil material in dust storms;
3 the piling up of soil on lower slopes and its deposit over
4 alluvial plains; the reduction in productivity or outright
5 ruin of rich bottom lands by overwash of poor subsoil
6 material, sand, and gravel swept out of the hills;
7 deterioration of soil and its fertility, deterioration of
8 crops and range cover grown thereon, and declining acre
9 yields despite development of scientific processes for
10 increasing such yields; loss of soil and water which causes
11 destruction of food and cover for wildlife; a blowing and
12 washing of soil into streams which silts over spawning beds
13 and destroys water plants, diminishing the food supply of
14 fish; a diminishing of the underground water reserve, which
15 causes water shortages, intensifies periods of drought, and
16 causes crop and range vegetation cover failures; and
17 increase in the speed and volume of rainfall runoff, causing
18 severe and increasing floods which bring suffering, disease,
19 and death; impoverishment of families attempting to operate
20 eroding and eroded lands; damage to roads, highways,
21 railways, farm buildings, and other property from floods and
22 from dust storms; and losses in municipal water supply,
23 irrigation developments, farming, and grazing;

24 (3) that to conserve soil resources and control and
25 prevent soil erosion and prevent floodwater and sediment

1 damages and further the conservation, development,
 2 utilization, and disposal of water, it is necessary that
 3 land use practices contributing to soil wastage and soil
 4 erosion be discouraged and discontinued and appropriate
 5 soil-conserving land use practices and works of improvement
 6 for flood prevention and the conservation, development,
 7 utilization, and disposal of water be adopted and carried
 8 out; that among the procedures necessary for widespread
 9 adoption are the carrying on of engineering operations such
 10 as the construction of water spreaders, terraces, terrace
 11 outlets, check dams, desilting basins, floodwater retarding
 12 structures, channel improvements, floodways, land drainage,
 13 dikes, ponds, ditches, and the like; the utilization of
 14 strip cropping, lister furrowing, contour cultivating, and
 15 contour furrowing; land drainage; land irrigation; seeding
 16 and planting of waste, sloping, abandoned, or eroded lands
 17 to water-conserving and erosion-preventing plants, trees,
 18 and grasses; forestation and reforestation; rotation of
 19 crops, restriction of number of livestock grazed, deferred
 20 grazing, rodent eradication; soil stabilization with trees,
 21 grasses, legumes, and other thick-growing, soil-holding
 22 crops; retardation of runoff by increasing absorption of
 23 rainfall; and retirement from cultivation of steep, highly
 24 erosive areas and areas now badly gullied or otherwise
 25 eroded;

1 (4) that agricultural lands in many portions of the
 2 state are under pressure from expanding urban areas or
 3 residential development in agricultural areas. This urban
 4 pressure takes the form of scattered development in wide
 5 belts around urban areas, brings conflicting land uses into
 6 juxtaposition, and stimulates land speculation. When this
 7 scattered development extends into good farm areas,
 8 ordinances inhibiting farming tend to follow and hopes for
 9 speculative gains discourage investment in farm
 10 improvements. Many of the agricultural lands in Montana are
 11 in jeopardy of being lost for any agricultural purposes.
 12 Certain of these lands constitute unique and irreplaceable
 13 land resources of statewide importance. In order to conserve
 14 and encourage the development and improvement of
 15 agricultural lands for the production of food and other
 16 agricultural products, to provide a smooth, voluntary
 17 process for farmers and ranchers to ensure the sound
 18 maintenance of their agricultural communities, to provide
 19 taxation relief for agricultural landowners, and to protect
 20 productive agricultural lands from land speculation and
 21 development pressures, it is necessary to provide a means by
 22 which agricultural land may be protected and enhanced as an
 23 important segment of the state's economy and as an economic
 24 and environmental resource of major importance. Purchase by
 25 the conservation district of conservation easements under

1 Title 76, chapter 6, is among the means available to
 2 accomplish this goal."

3 Section 8. Section 76-15-402, MCA, is amended to read:
 4 "76-15-402. Development of soil and water conservation
 5 plans. A conservation district and the supervisors thereof
 6 shall have the power to:

7 (1) develop comprehensive plans for the conservation
 8 of viable agricultural land and soil resources and for the
 9 control and prevention of soil erosion and for flood
 10 prevention and conservation, development, utilization, and
 11 disposal of water within the district, which plans shall
 12 specify in such detail as may be possible the acts,
 13 procedures, performances, and avoidances which are necessary
 14 or desirable for the effectuation of such plans, including
 15 the specification of engineering operations, range
 16 management, methods of cultivation, the growing of
 17 vegetation, cropping, range programs, tillage and grazing
 18 practices, and changes in use of land; and

19 (2) publish such plans and information and bring them
 20 to the attention of occupiers of lands within the district."

21 Section 9. Section 76-15-403, MCA, is amended to read:

22 "76-15-403. Operation of projects and works. A
 23 conservation district and the supervisors thereof shall have
 24 the power to:

25 (1) conduct agricultural land, soil, vegetation, and

1 water resources conservation projects on lands within the
 2 districts upon obtaining the consent of the owner of such
 3 lands or the necessary rights or interest in such land;

4 (2) carry out preventive and control measures and
 5 works of improvement for flood prevention and the
 6 conservation, development, utilization, and disposal of
 7 water within the district, including but not limited to
 8 engineering operations, range management, methods of
 9 cultivation, the growing of vegetation, changes in use of
 10 land, and the measures listed in 76-15-101(3) on lands owned
 11 or controlled by this state or any of its agencies with the
 12 cooperation of the agency administering and having
 13 jurisdiction thereof and on any other lands within the
 14 district upon obtaining the consent of the occupier of such
 15 lands or the necessary rights or interests in such lands;

16 (3) cooperate or enter into agreements with and,
 17 within the limits of appropriations duly made available to
 18 it by law, furnish financial or other aid to any agency,
 19 governmental or otherwise, or any occupier of lands within
 20 the district in the carrying on of erosion control and
 21 prevention operations, works of improvement for flood
 22 prevention, and the conservation, development, utilization,
 23 and disposal of water within the district, subject to such
 24 conditions as the supervisors may deem necessary to advance
 25 the purposes of this chapter;

1 (4) construct, improve, operate, and maintain such
 2 structures as may be necessary or convenient for the
 3 performance of any of the operations authorized in this
 4 chapter;

5 (5) take over, by purchase, lease, or otherwise, and
 6 administer any agricultural land conservation, soil
 7 conservation, flood prevention, drainage, irrigation, water
 8 management, erosion control, or erosion prevention project,
 9 or combinations thereof, located within its boundaries
 10 undertaken by the United States or any of its agencies or by
 11 this state or any of its agencies; manage, as agent of the
 12 United States or any of its agencies or of this state or any
 13 of its agencies, any agricultural land conservation, soil
 14 conservation, flood prevention, drainage, irrigation, water
 15 management, erosion control, or erosion prevention project,
 16 or combination thereof, within its boundaries; act as agent
 17 for the United States or any of its agencies or for this
 18 state or any of its agencies in connection with the
 19 acquisition, construction, operation, or administration of
 20 any agricultural land conservation, soil conservation, flood
 21 prevention, drainage, irrigation, water management, erosion
 22 control, or erosion prevention projects, or combination
 23 thereof, within its boundaries; accept donations, gifts, and
 24 contributions in money, services, materials, or otherwise
 25 from the United States or any of its agencies or from this

1 state or any of its agencies and use or expend such moneys,
 2 services, materials, or other contributions in carrying on
 3 its operations."

-End-

STATE OF MONTANA

REQUEST NO. 404-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 17, 19 81, there is hereby submitted a Fiscal Note for House Bill 777 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation:

House Bill 777 is intended to preserve agricultural lands by permitting a public body, including conservation districts, to acquire conservation easements in viable agricultural lands. It includes preservation of agricultural lands within the purposes of conservation districts.

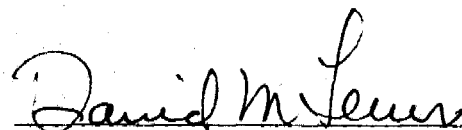
Assumptions:

1. Funding for purchase of agricultural easements will come from existing revenue sources of the conservation districts or other legislation and this act will have no impact on the level of that revenue.

2. The Conservation Districts Division of DNRC will absorb any additional responsibilities and costs with existing resources.

Fiscal Impact:

This act will have no fiscal impact on Department revenue or expenditures.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-20-81

Approved by Committee
on Agriculture Livestock
& Irrigation

HOUSE BILL NO. 777

INTRODUCED BY DONALDSON, KEEDY

A BILL FOR AN ACT ENTITLED: "AN ACT TO PRESERVE
AGRICULTURAL LANDS BY PERMITTING A PUBLIC BODY TO ACQUIRE A
CONSERVATION EASEMENT IN VIABLE AGRICULTURAL LANDS; TO
INCLUDE PRESERVATION OF AGRICULTURAL LANDS WITHIN THE
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and to conserve and encourage the development and
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1 food and other agricultural products;
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 3 rights in real property by certain qualifying private
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 6 the solution of these problems, the accomplishment of these
 7 purposes, and the health and welfare of the citizens of the
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 10 designate interests and rights in real property to provide
 11 or preserve open-space land and viable agricultural land and
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 14 ~~(8)~~(9) the statutory provision enabling certain
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 17 or preserve open-space land and viable agricultural land is
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 21 berries;
 22 (c) vegetables, including tomatoes, snap beans,
 23 cabbage, carrots, beets, POTATOES, and onions;
 24 (d) horticultural specialties, including ornamental
 25 shrubs, trees, and flowers;

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 2 cattle, sheep, hogs, goats, horses, hens, ducks, fur-bearing
 3 animals, milk, butter, cheese, meat, eggs, and furs; and

4 (f) beekeeping.

5 ~~††~~{2} "Comprehensive planning" means planning for
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 23 such easement or restriction any or all rights to construct
 24 improvements upon the land or to substantially alter the
 25 natural character of the land or to permit the construction

1 of improvements upon the land or the substantial alteration
 2 of the natural character of the land, except as this right
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 6 develop, construct on, sell, lease, or otherwise improve the
 7 agricultural land for uses that result in rendering such
 8 land no longer agricultural land, but does not include:

9 (a) improvements to agricultural land to preserve,
 10 maintain, operate, or continue such land as agricultural
 11 land, including but not limited to construction thereon of
 12 residences for persons directly incidental to farm
 13 operation, buildings for animals, roadside stands and farm
 14 markets for sale of products, facilities for the storing of
 15 equipment and products or processing thereof, or such other
 16 improvements, activities, and uses thereon as may be
 17 directly or incidentally related to the operation of the
 18 agricultural enterprise;

19 (b) extraction of gravel or like natural elements for
 20 purposes directly or incidentally related to the operation
 21 of the agricultural enterprise; or

22 (c) use of the existing water and mineral rights,
 23 exclusive of gravel, of the fee owner.

24 ~~††~~{5} "Open-space land" means any land which is
 25 provided or preserved for:

1 (a) for park or recreational purposes;
 2 (b) for conservation of land or other natural
 3 resources;
 4 (c) for historic or scenic purposes; or
 5 (d) assisting to assist in the shaping of the
 6 character, direction, and timing of community development;
 7 or
 8 (e) as viable agricultural land.
 9 (6) "Owner" means any person, corporation,
 10 partnership, trust, municipal corporation, or public utility
 11 or any other private or public entity that is the fee simple
 12 owner of agricultural land or that, by operation of law, has
 13 the power to exercise the rights of a fee simple owner.
 14 (4)(7) "Public body" means the state, counties,
 15 cities, towns, and other municipalities, and conservation
 16 districts.
 17 (5)(8) "Qualified private organization" means a
 18 private organization:
 19 (a) competent to own interests in real property;
 20 (b) which qualifies and holds a general tax exemption
 21 under the federal Internal Revenue Code, section 501(c); and
 22 (c) whose organizational purposes are designed to
 23 further the purposes of this chapter.
 24 (6)(9) "Urban area" means any area which is urban in
 25 character, including surrounding areas which form an

1 economic and socially related region, taking into
 2 consideration such factors as present and future population
 3 trends and patterns of urban growth, location of
 4 transportation facilities and systems, and distribution of
 5 industrial, commercial, residential, governmental,
 6 institutional, and other activities.
 7 (10) "Viable agricultural land" means land highly
 8 suitable for agricultural production, that will continue to
 9 be economically feasible for such use if real estate taxes,
 10 farm use restrictions, and speculative activities are
 11 limited to levels approximating those in commercial
 12 agricultural areas not influenced by the proximity of urban
 13 and related nonagricultural development."
 14 Section 5. Section 76-6-106, MCA, is amended to read:
 15 "76-6-106. Acquisition and designation of real
 16 property by public body. (1) To carry out the purposes of
 17 this chapter, any public body may:
 18 (1)(a) acquire by purchase, gift, devise, bequest, or
 19 grant title to or any interests or rights in real property,
 20 including land and water, that will provide a means for the
 21 preservation or provision of significant open-space land or
 22 viable agricultural land or the preservation of native
 23 plants or animals, biotic communities, or geological or
 24 geographical formations of scientific, aesthetic, or
 25 educational interest, or both;

1 ~~(2)~~(b) designate any real property, including land and
 2 water, in which it has an interest to be retained and used
 3 for the preservation and provision of significant open-space
 4 land or viable agricultural land or the preservation of
 5 native plants or animals, biotic communities, or geological
 6 or geographical formations of scientific, aesthetic, or
 7 educational interests, or both.

8 (2) In addition to those in subsection (1), the
 9 factors to be considered by the public body in deciding
 10 whether to make such an acquisition or designation of
 11 agricultural land are:

12 (a) the probability that the land will be sold for
 13 nonagricultural purposes;

14 (b) the degree to which it may be considered viable
 15 agricultural land;

16 (c) the degree to which such acquisition would
 17 contribute to preservation of the agricultural potential of
 18 the state; and

19 (d) the cost of acquiring the easement."

20 Section 6. Section 76-6-203, MCA, is amended to read:

21 "76-6-203. Types of permissible easements. Easements
 22 or restrictions under this chapter may prohibit or limit any
 23 or all of the following:

24 (1) structures--construction or placing of buildings,
 25 camping trailers, housetrainers, mobile homes, roads, signs,

1 billboards or other advertising, utilities, or other
 2 structures on or above the ground;

3 (2) landfill--dumping or placing of soil or other
 4 substance or material as landfill or dumping or placing of
 5 trash, waste, or unsightly or offensive materials;

6 (3) vegetation--removal or destruction of trees,
 7 shrubs, or other vegetation;

8 (4) loam, gravel, etc.--excavation, dredging, or
 9 removal of loam, peat, gravel, soil, rock, or other material
 10 substance;

11 (5) surface use--surface use except for such purposes
 12 permitting the land or water area to remain predominantly in
 13 its existing condition;

14 (6) acts detrimental to conservation--activities
 15 detrimental to drainage, flood control, water conservation,
 16 erosion control, soil conservation, or fish and wildlife
 17 habitat and preservation;

18 (7) subdivision of land--subdivision of land as
 19 defined in 76-3-103, 76-3-104, and 76-3-202;

20 (8) other acts--other acts or uses detrimental to such
 21 retention of land or water areas in their existing
 22 conditions;

23 (9) development of agricultural land--development of
 24 agricultural land as defined in [section 4]."

25 Section 7. Section 76-15-101, MCA, is amended to read:

1 "76-15-101. Legislative determinations. It is hereby
2 declared, as a matter of legislative determination:

3 (1) that the farm and grazing lands of the state of
4 Montana are among the basic assets of the state and that the
5 preservation of these lands is necessary to protect and
6 promote the health, safety, and general welfare of its
7 people; that improper land use practices have caused and
8 have contributed to and are now causing and contributing to
9 a progressively more serious erosion of the farm and grazing
10 lands of this state by wind and water; that the breaking of
11 natural grass, plant, and forest cover has interfered with
12 the natural factors of soil stabilization, causing loosening
13 of soil and exhaustion of humus and developing a soil
14 condition that favors erosion; that the topsoil is being
15 blown and washed out of fields and pastures; that there has
16 been an accelerated washing of sloping fields; that these
17 processes of erosion by wind and water speed up with removal
18 of absorptive topsoil, causing exposure of less absorptive
19 and less protective but more erosive subsoil; that failure
20 by any land occupier to conserve the soil and control
21 erosion upon his lands causes a washing and blowing of soil
22 and water from his lands onto other lands and makes the
23 conservation of soil and control of erosion on such other
24 lands difficult or impossible;

25 (2) that the consequences of such soil erosion in the

1 form of soil blowing and soil washing are the silting and
2 sedimentation of stream channels, reservoirs, dams, and
3 ditches; the loss of fertile soil material in dust storms;
4 the piling up of soil on lower slopes and its deposit over
5 alluvial plains; the reduction in productivity or outright
6 ruin of rich bottom lands by overflow of poor subsoil
7 material, sand, and gravel swept out of the hills;
8 deterioration of soil and its fertility, deterioration of
9 crops and range cover grown thereon, and declining acre
10 yields despite development of scientific processes for
11 increasing such yields; loss of soil and water which causes
12 destruction of food and cover for wildlife; a blowing and
13 washing of soil into streams which silts over spawning beds
14 and destroys water plants, diminishing the food supply of
15 fish; a diminishing of the underground water reserve, which
16 causes water shortages, intensifies periods of drought, and
17 causes crop and range vegetation cover failures; and
18 increase in the speed and volume of rainfall runoff, causing
19 severe and increasing floods which bring suffering, disease,
20 and death; impoverishment of families attempting to operate
21 eroding and eroded lands; damage to roads, highways,
22 railways, farm buildings, and other property from floods and
23 from dust storms; and losses in municipal water supply,
24 irrigation developments, farming, and grazing;

25 (3) that to conserve soil resources and control and

1 prevent soil erosion and prevent floodwater and sediment
 2 damages and further the conservation, development,
 3 utilization, and disposal of water, it is necessary that
 4 land use practices contributing to soil wastage and soil
 5 erosion be discouraged and discontinued and appropriate
 6 soil-conserving land use practices and works of improvement
 7 for flood prevention and the conservation, development,
 8 utilization, and disposal of water be adopted and carried
 9 out; that among the procedures necessary for widespread
 10 adoption are the carrying on of engineering operations such
 11 as the construction of water spreaders, terraces, terrace
 12 outlets, check dams, desilting basins, floodwater retarding
 13 structures, channel improvements, floodways, land drainage,
 14 dikes, ponds, ditches, and the like; the utilization of
 15 strip cropping, lister furrowing, contour cultivating, and
 16 contour furrowing; land drainage; land irrigation; seeding
 17 and planting of waste, sloping, abandoned, or eroded lands
 18 to water-conserving and erosion-preventing plants, trees,
 19 and grasses; forestation and reforestation; rotation of
 20 crops, restriction of number of livestock grazed, deferred
 21 grazing, rodent eradication; soil stabilization with trees,
 22 grasses, legumes, and other thick-growing, soil-holding
 23 crops; retardation of runoff by increasing absorption of
 24 rainfall; and retirement from cultivation of steep, highly
 25 erosive areas and areas now badly gullied or otherwise

1 eroded;

2 (4) that agricultural lands in many portions of the
 3 state are under pressure from expanding urban areas or
 4 residential development in agricultural areas. This urban
 5 pressure takes the form of scattered development in wide
 6 belts around urban areas, brings conflicting land uses into
 7 juxtaposition, and stimulates land speculation. When this
 8 scattered development extends into good farm areas,
 9 ordinances inhibiting farming tend to follow and hopes for
 10 speculative gains discourage investment in farm
 11 improvements. Many of the agricultural lands in Montana are
 12 in jeopardy of being lost for any agricultural purposes.
 13 Certain of these lands constitute unique and irreplaceable
 14 land resources of statewide importance. In order to conserve
 15 and encourage the development and improvement of
 16 agricultural lands for the production of food and other
 17 agricultural products, to provide a smooth, voluntary
 18 process for farmers and ranchers to ensure the sound
 19 maintenance of their agricultural communities, to provide
 20 taxation relief for agricultural landowners, and to protect
 21 productive agricultural lands from land speculation and
 22 development pressures, it is necessary to provide a means by
 23 which agricultural land may be protected and enhanced as an
 24 important segment of the state's economy and as an economic
 25 and environmental resource of major importance. Purchase by

1 OR DONATION TO the conservation district of conservation
2 easements under Title 76, chapter 6, is among the means
3 available to accomplish this goal."

4 Section 8. Section 76-15-402, MCA, is amended to read:
5 "76-15-402. Development of soil and water conservation
6 plans. A conservation district and the supervisors thereof
7 shall have the power to:

8 (1) develop comprehensive plans for the conservation
9 of viable agricultural land and soil resources and for the
10 control and prevention of soil erosion and for flood
11 prevention and conservation, development, utilization, and
12 disposal of water within the district, which plans shall
13 specify in such detail as may be possible the acts,
14 procedures, performances, and avoidances which are necessary
15 or desirable for the effectuation of such plans, including
16 the specification of engineering operations, range
17 management, methods of cultivation, the growing of
18 vegetation, cropping, range programs, tillage and grazing
19 practices, and changes in use of land; and

20 (2) publish such plans and information and bring them
21 to the attention of occupiers of lands within the district."

22 Section 9. Section 76-15-403, MCA, is amended to read:
23 "76-15-403. Operation of projects and works. A
24 conservation district and the supervisors thereof shall have
25 the power to:

1 (1) conduct agricultural land, soil, vegetation, and
2 water resources conservation projects on lands within the
3 districts upon obtaining the consent of the owner of such
4 lands or the necessary rights or interest in such land;

5 (2) carry out preventive and control measures and
6 works of improvement for flood prevention and the
7 conservation, development, utilization, and disposal of
8 water within the district, including but not limited to
9 engineering operations, range management, methods of
10 cultivation, the growing of vegetation, changes in use of
11 land, and the measures listed in 76-15-101(3) on lands owned
12 or controlled by this state or any of its agencies with the
13 cooperation of the agency administering and having
14 jurisdiction thereof and on any other lands within the
15 district upon obtaining the consent of the occupier of such
16 lands or the necessary rights or interests in such lands;

17 (3) cooperate or enter into agreements with and,
18 within the limits of appropriations duly made available to
19 it by law, furnish financial or other aid to any agency,
20 governmental or otherwise, or any occupier of lands within
21 the district in the carrying on of erosion control and
22 prevention operations, works of improvement for flood
23 prevention, and the conservation, development, utilization,
24 and disposal of water within the district, subject to such
25 conditions as the supervisors may deem necessary to advance

1 the purposes of this chapter;

2 (4) construct, improve, operate, and maintain such
3 structures as may be necessary or convenient for the
4 performance of any of the operations authorized in this
5 chapter;

6 (5) take over, by purchase, lease, or otherwise
7 RECEIVE BY DONATION, and administer any agricultural land
8 conservation, soil conservation, flood prevention, drainage,
9 irrigation, water management, erosion control, or erosion
10 prevention project, or combinations thereof, located within
11 its boundaries undertaken by the United States or any of its
12 agencies or by this state or any of its agencies; manage, as
13 agent of the United States or any of its agencies or of this
14 state or any of its agencies, any agricultural land
15 conservation, soil conservation, flood prevention, drainage,
16 irrigation, water management, erosion control, or erosion
17 prevention project, or combination thereof, within its
18 boundaries; act as agent for the United States or any of its
19 agencies or for this state or any of its agencies in
20 connection with the acquisition, construction, operation, or
21 administration of any agricultural land conservation, soil
22 conservation, flood prevention, drainage, irrigation, water
23 management, erosion control, or erosion prevention projects,
24 or combination thereof, within its boundaries; accept
25 donations, gifts, and contributions in money, services,

1 materials, or otherwise from the United States or any of its
2 agencies or from this state or any of its agencies and use
3 or expend such moneys, services, materials, or other
4 contributions in carrying on its operations."

-End-

1 HOUSE BILL NO. 777

2 INTRODUCED BY DONALDSON, KEEDY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PRESERVE
5 AGRICULTURAL LANDS BY PERMITTING A PUBLIC BODY TO ACQUIRE A
6 CONSERVATION EASEMENT IN VIABLE AGRICULTURAL LANDS; TO
7 INCLUDE PRESERVATION OF AGRICULTURAL LANDS WITHIN THE
8 PURPOSES OF CONSERVATION DISTRICTS; AMENDING SECTIONS
9 76-6-101 THROUGH 76-6-104, 76-6-106, 76-6-203, 76-15-101,
10 76-15-402, AND 76-15-403, MCA."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 76-6-101, MCA, is amended to read:
13 "76-6-101. Short title. This chapter may be cited as
14 the "Open-Space and Agricultural Land and Voluntary
15 Conservation Easement Act"."

16 Section 2. Section 76-6-102, MCA, is amended to read:
17 "76-6-102. Findings and policy. The legislature finds
18 that:

19 (1) the rapid growth and spread of urban development
20 are creating critical problems of service and finance for
21 the state and local governments;

22 (2) the present and future rapid population growth in
23 urban areas is creating severe problems of urban and
24 suburban living;

1 (3) this population spread and its attendant
2 development are disrupting and altering the remaining
3 natural areas, biotic communities, and geological and
4 geographical formations and thereby providing the potential
5 for the destruction of scientific, educational, aesthetic,
6 and ecological values;

7 (4) this scattered development is extending into good
8 farm areas and results in farm use restrictions, rising farm
9 taxes, and rising hopes for speculative gains, which
10 discourages investment in farm improvements;

11 ~~(4)~~(5) the present and future rapid population spread
12 throughout the state of Montana into its open spaces is
13 creating serious problems of lack of open space and
14 overcrowding of the land and placing many of the viable
15 agricultural lands in jeopardy of being lost for any
16 agricultural purposes;

17 ~~(5)~~(6) to lessen congestion and to preserve viable
18 agricultural land and natural, ecological, geographical, and
19 geological elements, the provision and preservation of
20 open-space lands are necessary to secure park, recreational,
21 historic, and scenic areas; and to conserve the land, its
22 biotic communities, its natural resources, and its
23 geological and geographical elements in their natural state;
24 and to conserve and encourage the development and
25 improvement of its agricultural lands for the production of

1 food and other agricultural products;
 2 ~~(6)~~(7) the acquisition or designation of interests and
 3 rights in real property by certain qualifying private
 4 organizations and by public bodies to provide or preserve
 5 open-space land and viable agricultural land is essential to
 6 the solution of these problems, the accomplishment of these
 7 purposes, and the health and welfare of the citizens of the
 8 state;
 9 ~~(7)~~(8) the exercise of authority to acquire or
 10 designate interests and rights in real property to provide
 11 or preserve open-space land and viable agricultural land and
 12 the expenditure of public funds for these purposes would be
 13 for a public purpose; and
 14 ~~(8)~~(9) the statutory provision enabling certain
 15 qualifying private organizations OR CONSERVATION DISTRICTS
 16 to acquire interests and rights in real property to provide
 17 or preserve open-space land and viable agricultural land is
 18 in the public interest."
 19 Section 3. Section 76-6-103, MCA, is amended to read:
 20 "76-6-103. Purposes. In accordance with the findings
 21 in 76-6-102, the legislature states that the purposes of
 22 this chapter are to:
 23 (1) authorize and enable public bodies and certain
 24 qualifying private organizations voluntarily to provide for
 25 the preservation of native plants or animals, biotic

1 communities, or geological or geographical formations of
 2 scientific, aesthetic, or educational interest;
 3 (2) provide for the preservation of other significant
 4 open-space land or viable agricultural land anywhere in the
 5 state either in perpetuity or for a term of years; and
 6 (3) encourage private participation in such a program
 7 by establishing the policy to be utilized in determining the
 8 property tax to be levied upon the real property which is
 9 subject to the provisions of this chapter."
 10 Section 4. Section 76-6-104, MCA, is amended to read:
 11 "76-6-104. Definitions. The following terms whenever
 12 used or referred to in this chapter shall have the following
 13 meanings unless a different meaning is clearly indicated by
 14 the context:
 15 (1) "Agricultural production" means the production for
 16 commercial purposes of all crops, livestock, and livestock
 17 products, including but not limited to the following:
 18 (a) field crops, including corn, wheat, oats, rye,
 19 barley, AND hay-and-potatoes;
 20 (b) fruits, including apples, peaches, cherries, and
 21 berries;
 22 (c) vegetables, including tomatoes, snap beans,
 23 cabbage, carrots, beets, POTATOES, and onions;
 24 (d) horticultural specialties, including ornamental
 25 shrubs, trees, and flowers;

1 (e) livestock and livestock products, including
 2 cattle, sheep, hogs, goats, horses, hens, ducks, fur-bearing
 3 animals, milk, butter, cheese, meat, eggs, and furs; and

4 (f) beekeeping.

5 ~~{1}~~(2) "Comprehensive planning" means planning for
 6 development and shall include:

7 (a) preparation of general physical plans with respect
 8 to the pattern and intensity of land use and the provision
 9 of public facilities, including transportation facilities,
 10 together with long-range fiscal plans for such development
 11 as a guide for long-range development AND PRESERVATION OF
 12 VIABLE FARM LAND;

13 (b) programming and financing plans for capital
 14 improvements;

15 (c) coordination of all related plans and planned
 16 activities at both the intragovernmental and
 17 intergovernmental levels; and

18 (d) preparation of regulatory and administrative
 19 measures in support of the foregoing.

20 ~~{2}~~{3} "Conservation easement" means an easement or
 21 restriction, running with the land and assignable, whereby
 22 an owner of land voluntarily relinquishes to the holder of
 23 such easement or restriction any or all rights to construct
 24 improvements upon the land or to substantially alter the
 25 natural character of the land or to permit the construction

1 of improvements upon the land or the substantial alteration
 2 of the natural character of the land, except as this right
 3 is expressly reserved in the instruments evidencing the
 4 easement or restriction.

5 {4} "Development of agricultural land" means to
 6 develop, construct on, sell, lease, or otherwise improve the
 7 agricultural land for uses that result in rendering such
 8 land no longer agricultural land, but does not include:

9 (a) improvements to agricultural land to preserve,
 10 maintain, operate, or continue such land as agricultural
 11 land, including but not limited to construction thereon of
 12 residences for persons directly incidental to farm
 13 operation, buildings for animals, roadside stands and farm
 14 markets for sale of products, facilities for the storing of
 15 equipment and products or processing thereof, or such other
 16 improvements, activities, and uses thereon as may be
 17 directly or incidentally related to the operation of the
 18 agricultural enterprise;

19 (b) extraction of gravel or like natural elements for
 20 purposes directly or incidentally related to the operation
 21 of the agricultural enterprise; or

22 (c) use of the existing water and mineral rights,
 23 exclusive of gravel, of the fee owner.

24 ~~{3}~~{5} "Open-space land" means any land which is
 25 provided or preserved for:

1 (a) for park or recreational purposes;
 2 (b) for conservation of land or other natural
 3 resources;
 4 (c) for historic or scenic purposes; or
 5 (d) assisting to assist in the shaping of the
 6 character, direction, and timing of community development;
 7 or
 8 (e) as viable agricultural land.
 9 (6) "Owner" means any person, corporation,
 10 partnership, trust, municipal corporation, or public utility
 11 or any other private or public entity that is the fee simple
 12 owner of agricultural land or that, by operation of law, has
 13 the power to exercise the rights of a fee simple owner.
 14 (4)(7) "Public body" means the state, counties,
 15 cities, towns, and other municipalities, and conservation
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 18 private organization:
 19 (a) competent to own interests in real property;
 20 (b) which qualifies and holds a general tax exemption
 21 under the federal Internal Revenue Code, section 501(c); and
 22 (c) whose organizational purposes are designed to
 23 further the purposes of this chapter.
 24 (6)(9) "Urban area" means any area which is urban in
 25 character, including surrounding areas which form an

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 3 trends and patterns of urban growth, location of
 4 transportation facilities and systems, and distribution of
 5 industrial, commercial, residential, governmental,
 6 institutional, and other activities.
 7 (10) "Viable agricultural land" means land highly
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 9 be economically feasible for such use if real estate taxes,
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 17 this chapter, any public body may:
 18 (1)(a) acquire by purchase, gift, devise, bequest, or
 19 grant title to or any interests or rights in real property,
 20 including land and water, that will provide a means for the
 21 preservation or provision of significant open-space land or
 22 viable agricultural land or the preservation of native
 23 plants or animals, biotic communities, or geological or
 24 geographical formations of scientific, aesthetic, or
 25 educational interest, or both;

1 ~~(2)~~ (b) designate any real property, including land and
 2 water, in which it has an interest to be retained and used
 3 for the preservation and provision of significant open-space
 4 land or viable agricultural land or the preservation of
 5 native plants or animals, biotic communities, or geological
 6 or geographical formations of scientific, aesthetic, or
 7 educational interests, or both.

8 (2) In addition to those in subsection (1), the
 9 factors to be considered by the public body in deciding
 10 whether to make such an acquisition or designation of
 11 agricultural land are:

12 (a) the probability that the land will be sold for
 13 nonagricultural purposes;

14 (b) the degree to which it may be considered viable
 15 agricultural land;

16 (c) the degree to which such acquisition would
 17 contribute to preservation of the agricultural potential of
 18 the state; and

19 (d) the cost of acquiring the easement."

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 25 camping trailers, housetrainers, mobile homes, roads, signs,

1 billboards or other advertising, utilities, or other
 2 structures on or above the ground;

3 (2) landfill--dumping or placing of soil or other
 4 substance or material as landfill or dumping or placing of
 5 trash, waste, or unsightly or offensive materials;

6 (3) vegetation--removal or destruction of trees,
 7 shrubs, or other vegetation;

8 (4) loam, gravel, etc.--excavation, dredging, or
 9 removal of loam, peat, gravel, soil, rock, or other material
 10 substance;

11 (5) surface use--surface use except for such purposes
 12 permitting the land or water area to remain predominantly in
 13 its existing condition;

14 (6) acts detrimental to conservation--activities
 15 detrimental to drainage, flood control, water conservation,
 16 erosion control, soil conservation, or fish and wildlife
 17 habitat and preservation;

18 (7) subdivision of land--subdivision of land as
 19 defined in 76-3-103, 76-3-104, and 76-3-202;

20 (8) other acts--other acts or uses detrimental to such
 21 retention of land or water areas in their existing
 22 conditions;

23 (9) development of agricultural land--development of
 24 agricultural land as defined in [section 4]."

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7 people; that improper land use practices have caused and
8 have contributed to and are now causing and contributing to
9 a progressively more serious erosion of the farm and grazing
10 lands of this state by wind and water; that the breaking of
11 natural grass, plant, and forest cover has interfered with
12 the natural factors of soil stabilization, causing loosening
13 of soil and exhaustion of humus and developing a soil
14 condition that favors erosion; that the topsoil is being
15 blown and washed out of fields and pastures; that there has
16 been an accelerated washing of sloping fields; that these
17 processes of erosion by wind and water speed up with removal
18 of absorptive topsoil, causing exposure of less absorptive
19 and less protective but more erosive subsoil; that failure
20 by any land occupier to conserve the soil and control
21 erosion upon his lands causes a washing and blowing of soil
22 and water from his lands onto other lands and makes the
23 conservation of soil and control of erosion on such other
24 lands difficult or impossible;

25 (2) that the consequences of such soil erosion in the

1 form of soil blowing and soil washing are the silting and
2 sedimentation of stream channels, reservoirs, dams, and
3 ditches; the loss of fertile soil material in dust storms;
4 the piling up of soil on lower slopes and its deposit over
5 alluvial plains; the reduction in productivity or outright
6 ruin of rich bottom lands by overwash of poor subsoil
7 material, sand, and gravel swept out of the hills;
8 deterioration of soil and its fertility; deterioration of
9 crops and range cover grown thereon; and declining acre
10 yields despite development of scientific processes for
11 increasing such yields; loss of soil and water which causes
12 destruction of food and cover for wildlife; a blowing and
13 washing of soil into streams which silts over spawning beds
14 and destroys water plants, diminishing the food supply of
15 fish; a diminishing of the underground water reserve, which
16 causes water shortages, intensifies periods of drought, and
17 causes crop and range vegetation cover failures; and
18 increase in the speed and volume of rainfall runoff, causing
19 severe and increasing floods which bring suffering, disease,
20 and death; impoverishment of families attempting to operate
21 eroding and eroded lands; damage to roads, highways,
22 railways, farm buildings, and other property from floods and
23 from dust storms; and losses in municipal water supply,
24 irrigation developments, farming, and grazing;

25 (3) that to conserve soil resources and control and

1 prevent soil erosion and prevent floodwater and sediment
 2 damages and further the conservation, development,
 3 utilization, and disposal of water, it is necessary that
 4 land use practices contributing to soil wastage and soil
 5 erosion be discouraged and discontinued and appropriate
 6 soil-conserving land use practices and works of improvement
 7 for flood prevention and the conservation, development,
 8 utilization, and disposal of water be adopted and carried
 9 out; that among the procedures necessary for widespread
 10 adoption are the carrying on of engineering operations such
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 12 outlets, check dams, desilting basins, floodwater retarding
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 14 dikes, ponds, ditches, and the like; the utilization of
 15 strip cropping, lister furrowing, contour cultivating, and
 16 contour furrowing; land drainage; land irrigation; seeding
 17 and planting of waste, sloping, abandoned, or eroded lands
 18 to water-conserving and erosion-preventing plants, trees,
 19 and grasses; forestation and reforestation; rotation of
 20 crops, restriction of number of livestock grazed, deferred
 21 grazing, rodent eradication; soil stabilization with trees,
 22 grasses, legumes, and other thick-growing, soil-holding
 23 crops; retardation of runoff by increasing absorption of
 24 rainfall; and retirement from cultivation of steep, highly
 25 erosive areas and areas now badly gullied or otherwise

1 eroded;

2 (4) that agricultural lands in many portions of the
 3 state are under pressure from expanding urban areas or
 4 residential development in agricultural areas. This urban
 5 pressure takes the form of scattered development in wide
 6 belts around urban areas, brings conflicting land uses into
 7 juxtaposition, and stimulates land speculation. When this
 8 scattered development extends into good farm areas,
 9 ordinances inhibiting farming tend to follow and hopes for
 10 speculative gains discourage investment in farm
 11 improvements. Many of the agricultural lands in Montana are
 12 in jeopardy of being lost for any agricultural purposes.
 13 Certain of these lands constitute unique and irreplaceable
 14 land resources of statewide importance. In order to conserve
 15 and encourage the development and improvement of
 16 agricultural lands for the production of food and other
 17 agricultural products, to provide a smooth, voluntary
 18 process for farmers and ranchers to ensure the sound
 19 maintenance of their agricultural communities, to provide
 20 taxation relief for agricultural landowners, and to protect
 21 productive agricultural lands from land speculation and
 22 development pressures, it is necessary to provide a means by
 23 which agricultural land may be protected and enhanced as an
 24 important segment of the state's economy and as an economic
 25 and environmental resource of major importance. Purchase by

1 OR DONATION TO the conservation district of conservation
2 easements under Title 76, chapter 6, is among the means
3 available to accomplish this goal."

4 Section 8. Section 76-15-402, MCA, is amended to read:
5 "76-15-402. Development of soil and water conservation
6 plans. A conservation district and the supervisors thereof
7 shall have the power to:

8 (1) develop comprehensive plans for the conservation
9 of viable agricultural land and soil resources and for the
10 control and prevention of soil erosion and for flood
11 prevention and conservation, development, utilization, and
12 disposal of water within the district, which plans shall
13 specify in such detail as may be possible the acts,
14 procedures, performances, and avoidances which are necessary
15 or desirable for the effectuation of such plans, including
16 the specification of engineering operations, range
17 management, methods of cultivation, the growing of
18 vegetation, cropping, range programs, tillage and grazing
19 practices, and changes in use of land; and

20 (2) publish such plans and information and bring them
21 to the attention of occupiers of lands within the district."

22 Section 9. Section 76-15-403, MCA, is amended to read:
23 "76-15-403. Operation of projects and works. A
24 conservation district and the supervisors thereof shall have
25 the power to:

1 (1) conduct agricultural land, soil, vegetation, and
2 water resources conservation projects on lands within the
3 districts upon obtaining the consent of the owner of such
4 lands or the necessary rights or interest in such land;

5 (2) carry out preventive and control measures and
6 works of improvement for flood prevention and the
7 conservation, development, utilization, and disposal of
8 water within the district, including but not limited to
9 engineering operations, range management, methods of
10 cultivation, the growing of vegetation, changes in use of
11 land, and the measures listed in 76-15-101(3) on lands owned
12 or controlled by this state or any of its agencies with the
13 cooperation of the agency administering and having
14 jurisdiction thereof and on any other lands within the
15 district upon obtaining the consent of the occupier of such
16 lands or the necessary rights or interests in such lands;

17 (3) cooperate or enter into agreements with and,
18 within the limits of appropriations duly made available to
19 it by law, furnish financial or other aid to any agency,
20 governmental or otherwise, or any occupier of lands within
21 the district in the carrying on of erosion control and
22 prevention operations, works of improvement for flood
23 prevention, and the conservation, development, utilization,
24 and disposal of water within the district, subject to such
25 conditions as the supervisors may deem necessary to advance

1 the purposes of this chapter;

2 (4) construct, improve, operate, and maintain such
3 structures as may be necessary or convenient for the
4 performance of any of the operations authorized in this
5 chapter;

6 (5) take over, by purchase, lease, or otherwise
7 RECEIVE BY DONATION, and administer any agricultural land
8 conservation, soil conservation, flood prevention, drainage,
9 irrigation, water management, erosion control, or erosion
10 prevention project, or combinations thereof, located within
11 its boundaries undertaken by the United States or any of its
12 agencies or by this state or any of its agencies; manage, as
13 agent of the United States or any of its agencies or of this
14 state or any of its agencies, any agricultural land
15 conservation, soil conservation, flood prevention, drainage,
16 irrigation, water management, erosion control, or erosion
17 prevention project, or combination thereof, within its
18 boundaries; act as agent for the United States or any of its
19 agencies or for this state or any of its agencies in
20 connection with the acquisition, construction, operation, or
21 administration of any agricultural land conservation, soil
22 conservation, flood prevention, drainage, irrigation, water
23 management, erosion control, or erosion prevention projects,
24 or combination thereof, within its boundaries; accept
25 donations, gifts, and contributions in money, services,

1 materials, or otherwise from the United States or any of its
2 agencies or from this state or any of its agencies and use
3 or expend such moneys, services, materials, or other
4 contributions in carrying on its operations."

-End-