

HOUSE BILL NO. 349

INTRODUCED BY SPAETH, CONOVER, ASAY, NEUMAN, ABRAMS,  
SAUNDERS, THOFT, CURTISS, HOLLIDAY, SCHYE, BLISS, LYBECK

IN THE HOUSE

January 19, 1983	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
February 9, 1983	Committee recommend bill do pass as amended. Report adopted.
February 10, 1983	Bill printed and placed on members' desks.
February 11, 1983	Second reading, do pass.
February 14, 1983	Considered correctly engrossed.
February 15, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 16, 1983	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
March 15, 1983	Committee recommend bill be concurrent in as amended. Report adopted.  Statement of Intent attached.
March 17, 1983	Second reading, concurrent in.
March 19, 1983	Third reading, concurrent in. Ayes, 48; Nays, 2.

IN THE HOUSE

March 19, 1983

Returned to House with  
amendments and Statement  
of Intent.

March 31, 1983

Second reading, amendments  
and Statement of Intent  
concurred in.

April 1, 1983

Third reading, amendments  
and Statement of Intent  
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 *House* BILL NO. *349*  
 2 INTRODUCED BY *Spencer Conner*  
 3 *Sanders* *Walt* *Curtis* *Holliday* *Schae* *Bliss* *Schub*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE (AND  
 5 CLARIFY THE CONSERVATION DISTRICT LAWS; AMENDING SECTIONS  
 6 76-15-301, 76-15-304, 76-15-311, 76-15-313, 76-15-319,  
 7 76-15-502, 76-15-515 THROUGH 76-15-517, 76-15-523, AND  
 8 76-15-804, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
 9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 11 Section 1. Section 76-15-301, MCA, is amended to read:  
 12 "76-15-301. Establishment of supervisor areas. ~~(1)~~ The  
 13 conservation district is authorized to divide the  
 14 unincorporated area of the district into no more than five  
 15 supervisor areas.  
 16 (2) Each supervisor area must be represented by one  
 17 supervisor. If less than five supervisor areas are  
 18 established, sufficient supervisors must be elected at large  
 19 to complete the governing body of the district as provided  
 20 in 76-15-311(1)."  
 21 Section 2. Section 76-15-304, MCA, is amended to read:  
 22 "76-15-304. Election of supervisors. (1) Two  
 23 supervisors shall be elected at the second general election  
 24 following the organization or reorganization of the district  
 25 and shall replace the two supervisors appointed by the

1 department. Thereafter, a district shall alternately elect  
 2 three and two supervisors at succeeding general elections.  
 3 (2) Nominations for the election of supervisors shall  
 4 be made as provided under 76-15-302 except that a nominating  
 5 election shall be held if more than four candidates are  
 6 nominated by petition when two supervisors are to be  
 7 elected.  
 8 (3) All costs of elections held under subsections (1)  
 9 and (2) must be paid as provided in 13-1-302(1)."  
 10 Section 3. Section 76-15-311, MCA, is amended to read:  
 11 "76-15-311. Governing body of district. (1) If there  
 12 are no incorporated municipalities within the boundaries of  
 13 the district, the governing body of the district shall  
 14 consist of five elected supervisors.  
 15 (2) If there are incorporated municipalities within  
 16 the boundaries of the district, the governing body of the  
 17 district shall consist of seven supervisors as follows:  
 18 (a) The board of supervisors, in addition to five  
 19 elected supervisors, shall consist of two appointed  
 20 supervisors, making a total of seven supervisors in such  
 21 districts. The two appointed supervisors must be residents  
 22 of municipalities within the district. The legislative  
 23 bodies of the incorporated municipalities within the  
 24 district shall appoint the two additional supervisors after  
 25 consultation with the elected supervisors. The term of

1 office of the appointed supervisors shall be 3 years.

2 (b) Where there are more than two incorporated  
3 municipalities within a district, the two appointed  
4 supervisors shall represent all the municipalities and urban  
5 interests in the district and no municipality shall have  
6 more than one appointed supervisor residing therein.

7 ~~(3) The board of supervisors may appoint associate~~  
8 ~~supervisors. It considers necessary to advise the board of~~  
9 ~~supervisors on the operation of the conservation district as~~  
10 ~~provided in part 4 of this chapter."~~

11 Section 4. Section 76-15-313, MCA, is amended to read:

12 "76-15-313. Operation of supervisors. (1) The  
13 supervisors shall annually elect a chairman from their  
14 members.

15 (2) A majority of the supervisors constitute a quorum,  
16 and ~~except as otherwise specifically provided,~~ the  
17 concurrence of a majority in any matter within their duties  
18 is required for its determination.

19 ~~(3) Except for special projects in which funds are~~  
20 ~~available upon the unanimous approval of the board of~~  
21 ~~supervisors, a supervisor may not receive compensation for~~  
22 ~~his services, but he is entitled to expenses including~~  
23 ~~travel expenses as provided for in 2-18-501 through~~  
24 ~~2-18-503, incurred in the discharge of his duties. However,~~  
25 ~~no supervisor may receive compensation for attendance at a~~

1 regularly scheduled meeting of the board of supervisors."

2 Section 5. Section 76-15-319, MCA, is amended to read:

3 "76-15-319. Legal assistance. (1) The supervisors may  
4 call upon the county attorney of the county in which the  
5 greatest portion of the district is located or the attorney  
6 general of the state for such legal services as they may  
7 require or may employ their own counsel and legal staff.

8 (2) If the county attorney is unable to provide legal  
9 assistance because of ~~lack of staff or~~ a conflict of  
10 interest, then the matter may be referred to the attorney  
11 general or the department of natural resources and  
12 conservation."

13 Section 6. Section 76-15-502, MCA, is amended to read:

14 "76-15-502. Allocation of state funds among districts.

15 (1) Unless otherwise provided by law, all money which may  
16 from time to time be appropriated out of the state treasury  
17 to pay the administrative and other expenses of conservation  
18 districts shall be allocated by the department among the  
19 districts already organized or to be organized during the  
20 ensuing biennial fiscal period ~~in accordance with the~~  
21 ~~procedure specified in subsections (2) and (3) of this~~  
22 ~~section.~~

23 ~~(2) -- (a) Seventy-five percent of all money which may be~~  
24 ~~appropriated to pay the administrative and other expenses of~~  
25 ~~conservation districts shall be allocated by the department~~

~~among all the districts organized or to be organized within the ensuing biennial fiscal period under this chapter in direct proportion to the total acreage of land within each district.~~

~~(b) The remaining 25% of the money shall be allocated by the department among the districts on such basis of allocation as is fair, reasonable and in the public interest, giving due consideration to the greater relative expense of carrying on operations within the particular districts because of such factors as unusual topography, unusual severity of erosion, special difficulty of carrying on operations, special volume of work to be done, and the special importance of instituting erosion control operations immediately.~~

~~(3)(2) In making allocations of the money, the department shall retain an amount estimated by it to be adequate to enable it to make subsequent allocations in accordance with this section and 76-15-503 and 76-15-504 from time to time among districts which may be organized after the initial allocations are made but within the ensuing biennial fiscal period.~~

Section 7. Section 76-15-515, MCA, is amended to read:

"76-15-515. Maximum regular assessment. The regular assessment in any one year shall not exceed 1 1/2 mills on the dollar of total taxable valuation of real property

~~within the district except that cities that voted to be included in a district prior to July 1, 1971, shall be excluded from the district by a majority vote of the council. The valuation shall be determined according to the last assessment roll.~~

Section 8. Section 76-15-516, MCA, is amended to read:

"76-15-516. Levy of regular and special assessment.

(1) The board of county commissioners of each county in which there lies any portion of the district may, annually at the time of levying county taxes, levy an assessment on the taxable real property within the district ~~except that cities that voted to be included in a district prior to July 1, 1971, shall be excluded from the district by a majority vote of the council.~~ It shall be known as the ".... (name of district) conservation district regular assessment" and shall be sufficient to raise the amount reported to them in the estimate of the supervisors.

(2) The board of county commissioners of each county in which there lies any portion of a project area may, annually at the time of levying county taxes, levy an assessment not to exceed 3 mills on the taxable real property within the project area. It shall be known as ".... (name of the project area) special assessment" and shall be sufficient to raise the amount reported to them in the estimate of the supervisors."

Section 9. Section 76-15-517, MCA, is amended to read:

"76-15-517. Computation of rate of assessment. The board of county commissioners shall determine the rate of assessment by deducting 15% for anticipated delinquencies from the total assessed value of the taxable real property in the district, ~~except that cities that voted to be included in a district prior to July 1, 1971, shall be excluded from the district by a majority vote of the council,~~ and then dividing the sum required to be raised by the remainder of the total assessed value. If a fraction of a cent occurs in a valuation of \$100, it shall be taken as a full cent."

Section 10. Section 76-15-523, MCA, is amended to read:

"76-15-523. Depository of district funds. The treasury of the principal county is the depository of all of the county tax funds of the district. The district may receive upon demand all or a portion of the district funds from the county treasury and deposit the funds in a bank or financial institution in such account as the board of supervisors considers appropriate for the operation and administration of the district."

Section 11. Section 76-15-804, MCA, is amended to read:

"76-15-804. Petition to discontinue all or part of a

district. (1) At any time after 5 years after the organization of a district under this chapter, ~~any 10% or more of the~~ qualified electors within the boundaries of the district may file a petition with the department praying that the board terminate the operations of the district or a part of the district and discontinue the existence of the district or that part of the district.

(2) The department may conduct such public meetings and public hearings upon the petition as are necessary to assist it and the board in the consideration thereof."

NEW SECTION. Section 12. Effective date. This act is effective on passage and approval.

-End-

Approved by Committee  
on Agriculture Livestock  
& Irrigation

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(2) If there are incorporated municipalities within  
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(a) The board of supervisors, in addition to five  
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19 districts shall be allocated by the department among the  
20 districts already organized or to be organized during the  
21 ensuing biennial fiscal period ~~in accordance with the~~  
22 ~~procedure specified in subsections (2) and (3) of this~~  
23 ~~section.~~

24 ~~(2) (a) Seventy-five percent of all money which may be~~  
25 ~~appropriated to pay the administrative and other expenses of~~



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2 among--all--the--districts--organized--or--to--be--organized--within  
3 the--ensuing--biennial--fiscal--period--under--this--chapter--in  
4 direct--proportion--to--the--total--acreage--of--land--within--each  
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6 (b)--The--remaining--25%--of--the--money--shall--be--allocated  
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9 interest--giving--due--consideration--to--the--greater--relative  
10 expense--of--carrying--on--operations--within--the--particular  
11 districts--because--of--such--factors--as--unusual--topography  
12 unusual--severity--of--erosion--special--difficulty--of--carrying  
13 on--operations--special--volume--of--work--to--be--done--and--the  
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16 (3)(2) In making allocations of the money, the  
17 department shall retain an amount estimated by it to be  
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19 accordance with this section and 76-15-503, and 76-15-504  
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21 after the initial allocations are made but within the  
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24 "76-15-515. Maximum regular assessment. The regular  
25 assessment in any one year shall not exceed 1 1/2 mills on

1 the dollar of total taxable valuation of real property  
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3 included--in--a--district--prior--to--July--1--1971--shall--be  
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10 which there lies any portion of the district may, annually  
11 at the time of levying county taxes, levy an assessment on  
12 the taxable real property within the district--except--that  
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16 district) conservation district regular assessment" and  
17 shall be sufficient to raise the amount reported to them in  
18 the estimate of the supervisors.

19 (2) The board of county commissioners of each county  
20 in which there lies any portion of a project area may,  
21 annually at the time of levying county taxes, levy an  
22 assessment not to exceed 3 mills on the taxable real  
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5 assessment by deducting 15% for anticipated delinquencies  
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17 county tax funds of the district. The district may receive  
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19 county treasury and deposit the funds in a bank or financial  
20 institution in such account as the board of supervisors  
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23 Section 10. Section 76-15-804, MCA, is amended to  
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25 "76-15-804. Petition to discontinue all or part of a

1 district. (1) At any time after 5 years after the  
2 organization of a district under this chapter, any 10% or  
3 more of the qualified electors within the boundaries of the  
4 district may file a petition with the department praying  
5 that the board terminate the operations of the district or a  
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8 (2) The department may conduct such public meetings  
9 and public hearings upon the petition as are necessary to  
10 assist it and the board in the consideration thereof."

11 NEW SECTION. Section 11. Effective date. This act is  
12 effective on passage and approval.

-End-

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(a) The board of supervisors, in addition to five elected supervisors, shall consist of two appointed supervisors, making a total of seven supervisors in such districts. The two appointed supervisors must be residents of municipalities within the district. The legislative bodies of the incorporated municipalities within the district shall appoint the two additional supervisors after

consultation with the elected supervisors. The term of office of the appointed supervisors shall be 3 years.

(b) Where there are more than two incorporated municipalities within a district, the two appointed supervisors shall represent all the municipalities and urban interests in the district and no municipality shall have more than one appointed supervisor residing therein.

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5 assessment by deducting 15% for anticipated delinquencies  
6 from the total assessed value of the taxable real property  
7 in the district--except--that--cities--that--voted--to--be  
8 included--in--a--district--prior--to--July-1-1971--shall--be  
9 excluded--from--the--district--by--a--majority--vote--of--the  
10 council-- and then dividing the sum required to be raised by  
11 the remainder of the total assessed value. If a fraction of  
12 a cent occurs in a valuation of \$100, it shall be taken as a  
13 full cent."

14 Section 9. Section 76-15-523, MCA, is amended to read:

15 "76-15-523. Depository of district funds. The treasury  
16 of the principal county is the depository of all of the  
17 county tax funds of the district. ~~The district may receive~~  
18 ~~upon demand all or a portion of the district funds from the~~  
19 ~~county treasury and deposit the funds in a bank or financial~~  
20 ~~institution in such account as the board of supervisors~~  
21 ~~considers appropriate for the operation and administration~~  
22 ~~of the district."~~

23 Section 10. Section 76-15-804, MCA, is amended to  
24 read:

25 "76-15-804. Petition to discontinue all or part of a

1 district. (1) At any time after 5 years after the  
2 organization of a district under this chapter, any 10% or  
3 ~~more of the~~ qualified electors within the boundaries of the  
4 district may file a petition with the department praying  
5 that the board terminate the operations of the district or a  
6 part of the district and discontinue the existence of the  
7 district or that part of the district.

8 (2) The department may conduct such public meetings  
9 and public hearings upon the petition as are necessary to  
10 assist it and the board in the consideration thereof."

11 NEW SECTION. Section 11. Effective date. This act is  
12 effective on passage and approval.

-End-

March 15, 1983

SENATE STANDING COMMITTEE REPORT  
(Agriculture, Livestock & Irrigation)

That the following Statement of Intent be added to House Bill No. 349:

A statement of intent is required for this bill because it delegates rulemaking authority in section 17 to conservation districts that elect to establish conservation practice loan programs.

The intent is to provide conservation districts with the authority to adopt those rules necessary to administer conservation practice loan programs. This authority is limited by section 17 to adopting rules: prescribing the form and content of applications for loans and plans for the resource conservation practice; governing the application, implementation, and interpretation of the criteria and preferences for awarding loans; providing for the servicing of loans, including arrangements for obtaining security interests and the establishment of reasonable fees or charges; providing for the confidentiality of financial statements submitted; prescribing the conditions for making loans; establishing the interest rate for the loans; and determining the type and amount of security interest in real estate that will be accepted and any conditions to be made upon the security interest.

First adopted by the Senate Agriculture, Livestock & Irrigation Committee on the 12th day of March, 1983.

March 15, 1983

SENATE STANDING COMMITTEE REPORT  
(Agriculture, Livestock & Irrigation)

That House Bill No. 349 be amended as follows:

1. Page 1, line 6  
Following: "LAWS;"  
Insert: "TO ESTABLISH A CONSERVATION PRACTICE LOAN PROGRAM;"
  2. Page 1, line 7  
Following: "76-15-319,"  
Insert: "76-15-501,"
  3. Page 1, line 8  
Following: "76-15-502,"  
Insert: "76-15-512,"
  4. Page 1, line 8  
Following: "76-15-523,"  
Insert: "76-15-524, 76-15-527,"
  5. Page 8.  
Following: line 10  
Insert: "NEW SECTION. Section 11. Conservation practice loan program. (1) A conservation district may establish and administer a conservation practice loan program pursuant to [sections 11 through 17].  
(2) A conservation practice loan may be made to a land occupier who is an agriculture producer within the exterior boundaries of the district. The conservation practice must be constructed, operated, developed, and maintained within the district.  
(3) A conservation practice is the construction, operation, development, or maintenance of an erosion control and prevention operation, a work of improvement for flood prevention, and the conservation, development, use, and disposal of water within a district in furtherance of the purposes and policies of this chapter. Conservation practices include those practices pertaining to acceptable land use conversion as determined by a majority of the district supervisors with the advice of the United States soil conservation service.
- NEW SECTION. Section 12. Conservation practice loan account. (1) The supervisors of a district may allocate a portion of the regular assessment for each fiscal year to a segregated and separate conservation practice loan account within the treasury of the principal county for the purpose of providing funds for conservation practice loans.  
(2) Conservation practice loan repayments, including principal and interest, and administrative fees or charges for loans must be deposited in the conservation practice loan account.  
(3) The funds in the conservation practice loan account may be used for conservation practice loans and for the administrative expenses of a conservation practice loan program.



NEW SECTION. Section 13. Application for loan.

(1) An application for a loan must be in the form prescribed by the district supervisors and contain or be accompanied by any information necessary to adequately describe the proposed conservation practice and necessary for evaluation of the proposed conservation practice under the criteria contained in [sections 14 and 15].

(2) The application must include a conservation plan, which may be prepared in consultation with the United States soil conservation service.

NEW SECTION. Section 14. Eligibility for loan. A district may award a loan to a land occupier to finance a conservation practice only if a majority of the district supervisors find, based on the application and the supervisors' investigation and evaluation of the proposal, that:

- (1) the conservation practice will be economically feasible;
- (2) the conservation practice will comply with statutory and regulatory standards protecting the quality of resources such as air, water, land, fish, wildlife, and recreational opportunities;
- (3) the applicant has adequate financial resources to construct, operate, develop, and maintain the conservation practice; and
- (4) the applicant is credit-worthy and is able and willing to enter into a contract with the district for loan repayment and for construction, operation, development, and maintenance of the proposed conservation practice.

NEW SECTION. Section 15. Criteria for evaluation of loan applicants - preferences. (1) The district supervisors shall apply the following criteria in ranking applications for a conservation practice loan that is eligible for funding under [section 14]:

- (a) the extent and desirability of the conservation need and resource benefit as determined in the district's annual and long-range plans;
- (b) the feasibility and practicality of the project;
- (c) the number of related resources that will benefit, including but not limited to water quality, wildlife habitat, and recreation;
- (d) the extent and desirability of associated public benefits in addition to any private benefits the project or activity may provide; and
- (e) any other factor that, in the district supervisors' judgment, is important to the evaluation of the conservation practice in light of the purposes, policies, and objectives of this chapter.

(2) Among applications for a loan in which the proposed conservation practices are substantially equal in ranking under subsection (1), a district shall give preference to;

- (a) applicants who have not previously received a conservation practice loan; and
- (b) applications for a group or cooperative conservation practice.

NEW SECTION. Section 16. Terms and conditions of loan. A conservation practice loan is subject to the following terms and conditions:

(1) The district shall obtain such security interest in real estate as would be obtained by a reasonable, careful, and prudent lender.

(2) The term of the loan may not be greater than the life of the project and in no case may it exceed 30 years.

(3) A current appraisal of real estate offered as security and a commitment for title insurance on that land must be secured by the borrower at his expense. All costs incident to the loan and loan closing, other than administrative costs of the district, must be paid by the borrower.

(4) A conservation practice must be completed according to United States soil conservation service standards and specifications, if applicable.

NEW SECTION. Section 17. Rules. The district shall adopt rules in accordance with the Montana Administrative Procedure Act:

(1) prescribing the form and content of applications for loans and plans for the resource conservation practice;

(2) governing the application of the criteria and preferences for awarding loans;

(3) providing for the servicing of loans, including arrangements for obtaining security interests and the establishment of reasonable fees or charges;

(4) providing for the confidentiality of financial statements submitted;

(5) prescribing the conditions for making loans;

(6) establishing the interest rate for the loans; and

(7) determining the type and amount of security interest in real estate that will be accepted and any conditions to be made upon the security interest.

Section 18. Section 76-15-501, MCA, is amended to read:

"76-15-501. Financial management. A conservation district and the supervisors thereof shall have the power to:

(1) borrow money and incur indebtedness and issue bonds or other evidence of such indebtedness;

(2) also refund or retire an indebtedness or lien that may exist against the district or property thereof;

(3) fix and revise as necessary and collect rates, fees, tolls, rents, or other charges for the use of or for services, facilities, and materials furnished or provided, and revenues from these sources may be expended in carrying out the purposes and provisions of this chapter;

(4) cause taxes to be levied in the same manner provided for in this part for the purpose of paying any obligation of the district and to accomplish the purposes of this chapter in the manner herein provided;

(5) apply for and receive federal revenue sharing funds in order to carry out the purposes and provisions of this chapter;  
(6) establish a conservation practice loan program as provided in this part."

Section 19. Section 76-15-512, MCA, is amended to read:

"76-15-512. Expenses to be covered by estimate. The total amount of the estimate shall be sufficient to raise the amount of money necessary during the ensuing year to pay the incidental expenses of the district and to fund a conservation practice loan program in those districts having elected to establish such a program."

Section 20. Section 76-15-524, MCA, is amended to read:

"76-15-524. Receipt and crediting of district funds - responsibility on bond. The treasurer of the principal county shall receive and receipt for all county tax money of the district and for all loan repayments and administrative fees or charges under a conservation practice loan program and place the same to the credit of the district. He is responsible on his official bond for the safekeeping and disbursement, in the manner provided in this part and part 6, of the money of the district held by him."

Section 21. Section 76-15-527, MCA, is amended to read:

"76-15-527. Purpose of expenditures. All money collected under 76-15-511 through 76-15-526 shall be expended for the purposes provided in 76-15-502 and 76-15-503 and for an established conservation practice loan program."

Section 22. Codification instruction. Sections 11 through 17 are intended to be codified as an integral part of Title 76, chapter 15, part 5, and the provisions of Title 76, chapter 15, part 5, apply to sections 11 through 17. "

Renumber: subsequent section

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 349

3 Senate Agriculture, Livestock and Irrigation Committee  
4

5 A statement of intent is required for this bill because  
6 it delegates rulemaking authority in section 17 to  
7 conservation districts that elect to establish conservation  
8 practice loan programs.

9 The intent is to provide conservation districts with  
10 the authority to adopt those rules necessary to administer  
11 conservation practice loan programs. This authority is  
12 limited by section 17 to adopting rules: prescribing the  
13 form and content of applications for loans and plans for the  
14 resource conservation practice; governing the application,  
15 implementation, and interpretation of the criteria and  
16 preferences for awarding loans; providing for the servicing  
17 of loans, including arrangements for obtaining security  
18 interests and the establishment of reasonable fees or  
19 charges; providing for the confidentiality of financial  
20 statements submitted; prescribing the conditions for making  
21 loans; establishing the interest rate for the loans; and  
22 determining the type and amount of security interest in real  
23 estate that will be accepted and any conditions to be made  
24 upon the security interest.

REFERENCE BILL

HB349

## HOUSE BILL NO. 349

INTRODUCED BY SPAETH, CONOVER, ASAY, NEUMAN, ABRAMS,  
SAUNDERS, THOFT, CURTISS, MOLLIDAY, SCHYE, BLISS, LYBECK

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
CLARIFY THE CONSERVATION DISTRICT LAWS; TO ~~ESTABLISH A~~  
~~CONSERVATION PRACTICE LOAN PROGRAM~~; AMENDING SECTIONS  
76-15-301, ~~76-15-304~~, 76-15-311, 76-15-313, 76-15-319,  
~~76-15-501~~, 76-15-502, ~~76-15-512~~, 76-15-515 THROUGH  
76-15-517, 76-15-523, ~~76-15-524~~, ~~76-15-527~~, AND 76-15-804,  
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 76-15-301, MCA, is amended to read:

"76-15-301. Establishment of supervisor areas. (1) The  
conservation district is authorized to divide the  
unincorporated area of the district into ~~no more than~~ five  
supervisor areas.

(2) ~~Each supervisor area must be represented by one  
supervisor. If less than five supervisor areas are  
established, sufficient supervisors must be elected at large  
to complete the governing body of the district as provided  
in 76-15-311(1).~~"

~~Section 2. Section 76-15-304, MCA, is amended to read:~~

~~"76-15-304. Election of supervisors. (1) Two~~

~~supervisors shall be elected at the second general election  
following the organization or reorganization of the district  
and shall replace the two supervisors appointed by the  
department. Thereafter, a district shall alternately elect  
three and two supervisors at succeeding general elections.  
(2) Nominations for the election of supervisors shall  
be made as provided under 76-15-302 except that a nominating  
election shall be held if more than four candidates are  
nominated by petition when two supervisors are to be  
elected.~~

~~(3) All costs of elections held under subsections (1)  
and (2) must be paid as provided in 13-1-302(1).~~"

Section 2. Section 76-15-311, MCA, is amended to read:

"76-15-311. Governing body of district. (1) If there  
are no incorporated municipalities within the boundaries of  
the district, the governing body of the district shall  
consist of five elected supervisors.

(2) If there are incorporated municipalities within  
the boundaries of the district, the governing body of the  
district shall consist of seven supervisors as follows:

(a) The board of supervisors, in addition to five  
elected supervisors, shall consist of two appointed  
supervisors, making a total of seven supervisors in such  
districts. The two appointed supervisors must be residents  
of municipalities within the district. The legislative

1 bodies of the incorporated municipalities within the  
2 district shall appoint the two additional supervisors after  
3 consultation with the elected supervisors. The term of  
4 office of the appointed supervisors shall be 3 years.

5 (b) Where there are more than two incorporated  
6 municipalities within a district, the two appointed  
7 supervisors shall represent all the municipalities and urban  
8 interests in the district and no municipality shall have  
9 more than one appointed supervisor residing therein.

10 ~~(3) The board of supervisors may appoint associate~~  
11 ~~supervisors it considers necessary to advise the board of~~  
12 ~~supervisors on the operation of the conservation district as~~  
13 ~~provided in part 4 of this chapter."~~

14 Section 3. Section 76-15-313, MCA, is amended to read:

15 "76-15-313. Operation of supervisors. (1) The  
16 supervisors shall annually elect a chairman from their  
17 members.

18 (2) A majority of the supervisors constitute a quorum,  
19 and ~~except as otherwise specifically provided,~~ the  
20 concurrence of a majority in any matter within their duties  
21 is required for its determination.

22 ~~(3) Except for special projects in which funds are~~  
23 ~~available upon the unanimous approval of the board of~~  
24 ~~supervisors, a supervisor may not receive compensation for~~  
25 ~~his services, but he is entitled to expenses~~ including

1 travel expenses as provided for in 2-18-501 through  
2 2-18-503, incurred in the discharge of his duties. ~~However,~~  
3 ~~no supervisor may receive compensation for attendance at a~~  
4 ~~regularly scheduled meeting of the board of supervisors."~~

5 Section 4. Section 76-15-319, MCA, is amended to read:

6 "76-15-319. Legal assistance. (1) The supervisors may  
7 call upon the county attorney of the county in which the  
8 greatest portion of the district is located or the attorney  
9 general of the state for such legal services as they may  
10 require or may employ their own counsel and legal staff.

11 (2) If the county attorney is unable to provide legal  
12 assistance because of ~~lack of staff or~~ a conflict of  
13 interest, then the matter may be referred to the attorney  
14 general or the department of natural resources and  
15 conservation."

16 Section 5. Section 76-15-502, MCA, is amended to read:

17 "76-15-502. Allocation of state funds among districts.  
18 (1) Unless otherwise provided by law, all money which may  
19 from time to time be appropriated out of the state treasury  
20 to pay the administrative and other expenses of conservation  
21 districts shall be allocated by the department among the  
22 districts already organized or to be organized during the  
23 ensuing biennial fiscal period ~~in accordance with the~~  
24 ~~procedure specified in subsections (2) and (3) of this~~  
25 ~~section.~~

~~(2) (a) Seventy-five percent of all money which may be appropriated to pay the administrative and other expenses of conservation districts shall be allocated by the department among all the districts organized or to be organized within the ensuing biennial fiscal period under this chapter in direct proportion to the total acreage of land within each district.~~

~~(b) The remaining 25% of the money shall be allocated by the department among the districts on such basis of allocation as is fair, reasonable, and in the public interest, giving due consideration to the greater relative expense of carrying on operations within the particular districts because of such factors as unusual topography, unusual severity of erosion, special difficulty of carrying on operations, special volume of work to be done, and the special importance of instituting erosion control operations immediately.~~

~~(3) (2) In making allocations of the money, the department shall retain an amount estimated by it to be adequate to enable it to make subsequent allocations in accordance with this section and 76-15-503 and 76-15-504 from time to time among districts which may be organized after the initial allocations are made but within the ensuing biennial fiscal period.~~

Section 6. Section 76-15-515, MCA, is amended to read:

"76-15-515. Maximum regular assessment. The regular assessment in any one year shall not exceed 1 1/2 mills on the dollar of total taxable valuation of real property within the district, except that cities that voted to be included in a district prior to July 1, 1971, shall be excluded from the district by a majority vote of the council. The valuation shall be determined according to the last assessment roll."

Section 7. Section 76-15-516, MCA, is amended to read:

"76-15-516. Levy of regular and special assessment. (1) The board of county commissioners of each county in which there lies any portion of the district may, annually at the time of levying county taxes, levy an assessment on the taxable real property within the district, except that cities that voted to be included in a district prior to July 1, 1971, shall be excluded from the district by a majority vote of the council. It shall be known as the ".... (name of district) conservation district regular assessment" and shall be sufficient to raise the amount reported to them in the estimate of the supervisors.

(2) The board of county commissioners of each county in which there lies any portion of a project area may, annually at the time of levying county taxes, levy an assessment not to exceed 3 mills on the taxable real property within the project area. It shall be known as "....

(name of the project area) special assessment" and shall be sufficient to raise the amount reported to them in the estimate of the supervisors."

Section 8. Section 76-15-517, MCA, is amended to read:

"76-15-517. Computation of rate of assessment. The board of county commissioners shall determine the rate of assessment by deducting 15% for anticipated delinquencies from the total assessed value of the taxable real property in the district--except--that--cities--that--voted--to--be included in a district prior to duty--in--1971--shall--be excluded--from--the--district--by--a--majority--vote--of--the council--and then dividing the sum required to be raised by the remainder of the total assessed value. If a fraction of a cent occurs in a valuation of \$100, it shall be taken as a full cent."

Section 9. Section 76-15-523, MCA, is amended to read:

"76-15-523. Depository of district funds. The treasury of the principal county is the depository of all of the county tax funds of the district. ~~The district may receive upon demand all or a portion of the district funds from the county treasury and deposit the funds in a bank or financial institution in such account as the board of supervisors considers appropriate for the operation and administration of the district.~~"

Section 10. Section 76-15-804, MCA, is amended to

read:

"76-15-804. Petition to discontinue all or part of a district. (1) At any time after 5 years after the organization of a district under this chapter, ~~any 10% or more of the~~ qualified electors within the boundaries of the district may file a petition with the department praying that the board terminate the operations of the district or a part of the district and discontinue the existence of the district or that part of the district.

(2) The department may conduct such public meetings and public hearings upon the petition as are necessary to assist it and the board in the consideration thereof."

THERE IS A NEW MCA SECTION THAT READS:

Section 11. Conservation practice loan program. (1) A conservation district may establish and administer a conservation practice loan program pursuant to [sections 11 through 17].

(2) A conservation practice loan may be made to a land occupier who is an agriculture producer within the exterior boundaries of the district. The conservation practice must be constructed, operated, developed, and maintained within the district.

(3) A conservation practice is the construction, operation, development, or maintenance of an erosion control and prevention operation, a work of improvement for flood



1 prevention, and the conservation, development, use, and  
2 disposal of water within a district in furtherance of the  
3 purposes and policies of this chapter. Conservation  
4 practices include those practices pertaining to acceptable  
5 land use conversion as determined by a majority of the  
6 district supervisors with the advice of the United States  
7 soil conservation service.

8 THERE IS A NEW MCA SECTION THAT READS:

9 Section 12. Conservation practice loan account. (1)  
10 The supervisors of a district may allocate a portion of the  
11 regular assessment for each fiscal year to a segregated and  
12 separate conservation practice loan account within the  
13 treasury of the principal county for the purpose of  
14 providing funds for conservation practice loans.

15 (2) Conservation practice loan repayments, including  
16 principal and interest, and administrative fees or charges  
17 for loans must be deposited in the conservation practice  
18 loan account.

19 (3) The funds in the conservation practice loan  
20 account may be used for conservation practice loans and for  
21 the administrative expenses of a conservation practice loan  
22 program.

23 THERE IS A NEW MCA SECTION THAT READS:

24 Section 13. Application for loan. (1) An application  
25 for a loan must be in the form prescribed by the district

1 supervisors and contain or be accompanied by any information  
2 necessary to adequately describe the proposed conservation  
3 practice and necessary for evaluation of the proposed  
4 conservation practice under the criteria contained in  
5 [sections 14 and 15].

6 (2) The application must include a conservation plan,  
7 which may be prepared in consultation with the United States  
8 soil conservation service.

9 THERE IS A NEW MCA SECTION THAT READS:

10 Section 14. Eligibility for loan. A district may award  
11 a loan to a land occupier to finance a conservation practice  
12 only if a majority of the district supervisors find, based  
13 on the application and the supervisors' investigation and  
14 evaluation of the proposal, that:

15 (1) the conservation practice will be economically  
16 feasible;

17 (2) the conservation practice will comply with  
18 statutory and regulatory standards protecting the quality of  
19 resources such as air, water, land, fish, wildlife, and  
20 recreational opportunities;

21 (3) the applicant has adequate financial resources to  
22 construct, operate, develop, and maintain the conservation  
23 practice; and

24 (4) the applicant is credit-worthy and is able and  
25 willing to enter into a contract with the district for loan

1 repayment and for construction, operation, development, and  
2 maintenance of the proposed conservation practice.

3 ~~THERE IS A NEW MCA SECTION THAT READS:~~

4 Section 15. Criteria for evaluation of loan applicants  
5 -- preferences. (1) The district supervisors shall apply the  
6 following criteria in ranking applications for a  
7 conservation practice loan that is eligible for funding  
8 under [section 14]:

9 (a) the extent and desirability of the conservation  
10 need and resource benefit as determined in the district's  
11 annual and long-range plans;

12 (b) the feasibility and practicality of the project;

13 (c) the number of related resources that will benefit,  
14 including but not limited to water quality, wildlife  
15 habitat, and recreation;

16 (d) the extent and desirability of associated public  
17 benefits in addition to any private benefits the project or  
18 activity may provide; and

19 (e) any other factor that, in the district  
20 supervisors' judgment, is important to the evaluation of the  
21 conservation practice in light of the purposes, policies,  
22 and objectives of this chapter.

23 (2) Among applications for a loan in which the  
24 proposed conservation practices are substantially equal in  
25 ranking under subsection (1), a district shall give

1 preference to:

2 (a) applicants who have not previously received a  
3 conservation practice loan; and

4 (b) applications for a group or cooperative  
5 conservation practice.

6 ~~THERE IS A NEW MCA SECTION THAT READS:~~

7 Section 16. Terms and conditions of loan. A  
8 conservation practice loan is subject to the following terms  
9 and conditions:

10 (1) The district shall obtain such security interest  
11 in real estate as would be obtained by a reasonable,  
12 careful, and prudent lender.

13 (2) The term of the loan may not be greater than the  
14 life of the project, and in no case may it exceed 30 years.

15 (3) A current appraisal of real estate offered as  
16 security and a commitment for title insurance on that land  
17 must be secured by the borrower at his expense. All costs  
18 incident to the loan and loan closing, other than  
19 administrative costs of the district, must be paid by the  
20 borrower.

21 (4) A conservation practice must be completed  
22 according to United States soil conservation service  
23 standards and specifications, if applicable.

24 ~~THERE IS A NEW MCA SECTION THAT READS:~~

25 Section 17. Rules. The district shall adopt rules in

1 accordance with the Montana Administrative Procedure Act:

2 (1) prescribing the form and content of applications  
3 for loans and plans for the resource conservation practice;

4 (2) governing the application of the criteria and  
5 preferences for awarding loans;

6 (3) providing for the servicing of loans, including  
7 arrangements for obtaining security interests and the  
8 establishment of reasonable fees or charges;

9 (4) providing for the confidentiality of financial  
10 statements submitted;

11 (5) prescribing the conditions for making loans;

12 (6) establishing the interest rate for the loans; and

13 (7) determining the type and amount of security  
14 interest in real estate that will be accepted and any  
15 conditions to be made upon the security interest.

16 SECTION 18. SECTION 76-15-501, MCA, IS AMENDED TO

17 READ:

18 "76-15-501. Financial management. A conservation  
19 district and the supervisors thereof shall have the power  
20 to:

21 (1) borrow money and incur indebtedness and issue  
22 bonds or other evidence of such indebtedness;

23 (2) also refund or retire an indebtedness or lien that  
24 may exist against the district or property thereof;

25 (3) fix and revise as necessary and collect rates,

1 fees, tolls, rents, or other charges for the use of or for  
2 services, facilities, and materials furnished or provided,  
3 and revenues from these sources may be expended in carrying  
4 out the purposes and provisions of this chapter;

5 (4) cause taxes to be levied in the same manner  
6 provided for in this part for the purpose of paying any  
7 obligation of the district and to accomplish the purposes of  
8 this chapter in the manner herein provided;

9 (5) apply for and receive federal revenue sharing  
10 funds in order to carry out the purposes and provisions of  
11 this chapter;

12 (6) establish a conservation practice loan program as  
13 provided in this part."

14 SECTION 19. SECTION 76-15-512, MCA, IS AMENDED TO  
15 READ:

16 "76-15-512. Expenses to be covered by estimate. The  
17 total amount of the estimate shall be sufficient to raise  
18 the amount of money necessary during the ensuing year to pay  
19 the incidental expenses of the district and to fund a  
20 conservation practice loan program in those districts having  
21 elected to establish such a program."

22 SECTION 20. SECTION 76-15-524, MCA, IS AMENDED TO  
23 READ:

24 "76-15-524. Receipt and crediting of district funds --  
25 responsibility on bond. The treasurer of the principal

1 county shall receive and receipt for all county tax money of  
 2 the district ~~and for all loan repayments and administrative~~  
 3 ~~fees or charges under a conservation practice loan program~~  
 4 and place the same to the credit of the district. He is  
 5 responsible on his official bond for the safekeeping and  
 6 disbursement, in the manner provided in this part and part  
 7 6, of the money of the district held by him."

8 ~~SECTION 21, SECTION 76-15-527, MCA, IS AMENDED TO~~  
 9 ~~READ:~~

10 "76-15-527. Purpose of expenditures. All money  
 11 collected under 76-15-511 through 76-15-526 shall be  
 12 expended for the purposes provided in 76-15-502 and  
 13 76-15-503 ~~and for an established conservation practice loan~~  
 14 ~~program."~~

15 ~~SECTION 22, CODIFICATION, INSUBSECTION, SECTIONS 11~~  
 16 ~~THROUGH 17 ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART~~  
 17 ~~OF TITLE 76, CHAPTER 15, PART 5, AND THE PROVISIONS OF TITLE~~  
 18 ~~76, CHAPTER 15, PART 5, APPLY TO SECTIONS 11 THROUGH 17.~~

19 ~~NEW SECTION.~~ Section 23. Effective date. This act is  
 20 effective on passage and approval.

-End-