

Testimony of Mr. Chase Hibbard
Montana Land Reliance
Before the Senate Committee on Finance
Private Land Conservation Initiatives
June 12, 2001

Mr. Chairman and Members of the Committee, it is indeed an honor for me to appear before you today to talk about private land conservation. On behalf of the Montana Land Reliance, I thank you for holding this hearing and add special thanks to Chairman Baucus for the invitation to be here today.

I am a fourth generation rancher with roots going back to 1868 in Montana. The fifth generation is coming along and we hope that they will be willing and able to continue our family's legacy and tradition as Montana ranchers.

Farming and ranching is a critical part of the cultural heritage that makes Montana such a special place to live. Agriculture continues to be Montana's number one industry, 160% above tourism, which is number two. Most of the small towns and rural communities are dependent upon agriculture and the economic prosperity of the state is closely linked to the prosperity of agriculture. Unfortunately, it is in trouble.

Over the past twenty-five years, over 3 million acres of agricultural land have been lost to development in Montana alone. Many of these acres were lost when family farms, hit hard by tough times, chose to give-up their generations old farming operations and sold to developers in order to pay their outstanding debts.

Today, I want to outline a policy initiative we've been working on with Senator Baucus, and other Members of Congress, that could have a dramatic, positive impact on protecting open space, conserving private land and enriching the farm and ranch heritage that is such an important part of who we are as a people.

This legislation, Senate Bill 701, known as the "Rural Heritage Conservation Act," will expand the current conservation easement tax incentive program with an eye toward making the system work better for the bulk of real, working farmers and ranchers who would like to preserve their land for future generations but for whom the current system does not provide any meaningful incentive.

Before I give you an overview of the proposal, I'd like to give you some background on the work of the Montana Land Reliance.

The Montana Land Reliance is a private, non-profit land trust that utilizes conservation easements to permanently protect Montana's private lands. Founded in 1978, the Montana Land Reliance has been able, with the help of over 380 landowners, to protect just over 365,000 acres in Montana. This represents roughly 20 percent of all protected land by local or regional land trusts across the entire United States. This protected land

includes 700 miles of stream and river frontage, over 140,000 acres in the Greater Yellowstone Ecosystem (Land that surrounds Yellowstone National Park).

All of this protection has been done with private conservation easements, typically with ranchers and farmers. At this point in The Montana Land Reliance's existence, we're finding that Montana's private landowners are facing incredible economic, estate and social pressures to develop their land. A vast majority are what we like to call "land rich, but cash poor." They typically hold a tremendous resource that they can't afford to keep. We need to find additional tools to help them keep their land in agricultural production and enable them to pass it on to their children.

So, how would S. 701 turn this around?

We believe the current tax code should be amended in a simple but meaningful way to significantly enhance private conservation efforts in Montana.

The heart of S. 701 is an expanded deduction that will allow qualified farm and ranch filers to donate a conservation easement to a qualified land trust. Put simply, the current limitations on deductions from gross income provide little real incentive for working farm and ranch households to place a conservation easement on their property. The issue is income. Too often, farmers and ranchers do not have an income level that allows them to use the current statutory deduction. This is not generally a problem for more affluent taxpayers, who are able to fully utilize an equivalent deduction amount within the existing carry-forward period.

The relatively small deduction that working farmers and ranchers can currently obtain by donating a conservation easement does not in any way equate to either the potential income they have forfeited by not selling their land for development or the value the public has gained from the donation. As a result, fewer and fewer farmers and ranchers are donating conservation easements and protecting their land for future generations. We've already creamed the crop, so to speak, under current law.

In our view, an expanded deduction and carry-forward period would turn this around in short order. This change in the law will equalize the tax treatment that potential donors of easements receive and will significantly enhance efforts to conserve critical farm and ranch lands.

By the way, to protect against abuse, S. 701 provides that only filers with a majority of their income from farm and ranch operations would qualify for the expanded deduction. This targets the incentive to the taxpayers who are working the land and not those with substantial income unrelated to active farming or ranching.

Second, we believe it is important to level the playing field between corporations and individuals. As you know, many farm and ranch operators do business as C-Corporations. S. 701 would equalize the tax treatment between those C-Corporations and

individual filers who derive more than 50 percent of their income from farming or ranching.

This affects me personally as our ranch operates as a C-Corporation. A 10% deduction would not be a sufficient incentive to donate an easement. The expanded deduction and longer carry-forward period contemplated by S. 701 provides a much greater incentive and would allow a significant enough incentive to make the donation of an easement much more attractive.

The Montana Land Reliance estimates that in Montana alone there are 40,000 acres of land in the hands of operators using the C-Corp structure who have already identified to us that the 10% limit is a barrier to their contributing an easement.

Third, S. 701 would eliminate the 25-mile radius provision that provides additional estate tax relief to landowners only within a 25-mile radius of a metropolitan area. Here, I would appreciably note that the most recent tax bill passed by the Congress and signed into law repeals the radius rule, as part of the estate tax changes that were made.

Elimination of the radius rule will be a significant improvement to current law for many who are located close to metropolitan areas or national parks.

Taken as a whole, the Montana Land Reliance believes that the passage of S. 701 will increase participation in voluntary conservation easement programs in Montana by as much as 100% within the first year of enactment.

All of these tools can be added to the current conservation easement law. These ideas are simple, private enterprise solutions that we believe will have an immediate, positive impact on private land conservation in Montana, and in other states.

We believe encouraging private land conservation efforts is the right thing to do, and we sincerely thank you for taking a leadership role on this important issue. Here, we have an opportunity to provide landowners and the land trust community with the tools needed to take a meaningful step forward in preserving the very heart of America.

It is important to rebalance the tax code in the very near future so that the working farming and ranching families have more of an equal financial incentive to donate conservation easements, if that is in fact their predisposition. If we wait very much longer, the heart and the wallet will go in separate directions, with these ranching families who often have the most pristine open space, becoming forced sellers for development.

Attached to my testimony is a list of land trusts in the United States that have endorsed S. 701.

Enclosures: (1) Biography
(2) Land Trust List