

SENATE BILL NO. 391  
INTRODUCED BY D. WEINBERG

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING RESTRICTIONS ON CONSERVATION EASEMENTS ON STATE LAND; PROVIDING FOR THE TERM OF CONSERVATION EASEMENTS ON STATE LAND; PROVIDING THAT TRADITIONAL CLASSIFIED USES MAY BE MAINTAINED; PROVIDING THAT A CONSERVATION EASEMENT ON STATE LAND MAY BE HELD BY A GOVERNMENTAL ENTITY ~~OR A QUALIFIED PRIVATE ORGANIZATION~~; AND AMENDING SECTION 77-2-101, MCA."

WHEREAS, citizens of the State of Montana value the preservation of traditional uses on school trust lands of grazing, farming, timber harvest, and general recreation; and

WHEREAS, if a conservation easement was purchased on school trust land, the public would get to examine and comment on that agreement to see how traditional uses are affected before the easement was finalized; and

WHEREAS, if valuable school trust lands are sold, the traditional uses on these lands could be lost; and

WHEREAS, the Department of Natural Resources and Conservation is charged with managing the state's school trust lands in a manner that derives revenue for the support of the common schools, the University System, and other state institutions; and

WHEREAS, the Department of Natural Resources and Conservation is currently working to increase the revenue earned from school trust lands by diversifying existing uses on school trust lands; and

WHEREAS, conservation easements are an effective tool available to protect these traditional uses while preserving the long-term value of trust lands and retaining the trust land base; and

WHEREAS, the money raised from the purchase of conservation easements on school trust lands is deposited in a nondistributable permanent trust, the interest of which can be used to benefit schools and other trust beneficiaries; and

WHEREAS, the money invested from the purchase of a conservation easement plus the money derived from annual leases or licenses for traditional uses can make traditional uses more financially lucrative for the schools and other trust beneficiaries.

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

**Section 1.** Section 77-2-101, MCA, is amended to read:

**"77-2-101. Easements for specific uses.** (1) Upon proper application as provided in 77-2-102, the board may grant easements on state lands for the following purposes:

- (a) schoolhouse sites and grounds;
- (b) public parks;
- (c) community buildings;
- (d) cemeteries;
- (e) conservation purposes as provided in subsection (3):

~~—— (i) to the department of fish, wildlife, and parks for parcels that are surrounded by or adjacent to land owned by the department of fish, wildlife, and parks as of January 1, 2001;~~

~~—— (ii) to a nonprofit corporation for parcels that are surrounded by or adjacent to land owned by that same nonprofit corporation as of January 1, 2001; and~~

~~—— (iii) to a nonprofit corporation for the Owen Sowerwine natural area located within section 16, township 28 north, range 21 west, in Flathead County; and~~

- (f) for other public uses.

(2) The board may grant easements on state lands for the following purposes:

(a) right-of-way across or upon any portion of state lands for any public highway or street, any ditch, reservoir, railroad, private road, or telegraph or telephone line, or any other public use as defined in 70-30-102;

or

- (b) any private building or private sewage system that encroaches on state lands.

(3) (a) A conservation easement granted pursuant to this section:

(i) may be granted in perpetuity or for a term of NOT TO EXCEED 50 years, AND THE DEPARTMENT SHALL REAPPRAISE THE VALUE OF THE CONSERVATION EASEMENT EVERY 10 YEARS AND ADJUST THE EASEMENT PAYMENT TERMS TO BE COMMENSURATE WITH CURRENT VALUE OF THE EASEMENT;

(ii) may be held only by a governmental entity or a qualified private organization, as defined in 76-6-104;  
and

(iii) must be subject to 77-2-304.

(b) Unless the board provides a compelling reason, conservation easements should THE BOARD SHALL PROVIDE COMPELLING EVIDENCE THAT CONSERVATION EASEMENTS GRANTED PURSUANT TO THIS SECTION COMPLY WITH THE MULTIPLE-USE MANAGEMENT CONCEPT PROVIDED FOR IN 77-1-203 AND allow:

(i) traditional classified uses described in 77-1-401, including timber, grazing, and agricultural uses that

were in place prior to the easement being issued; and

(ii) general recreation uses, as provided in Title 77, chapter 1, part 8, THAT WERE IN PLACE PRIOR TO THE EASEMENT BEING ISSUED.

(C) THE TOTAL ACREAGE OF LAND UNDER CONSERVATION EASEMENTS PURSUANT TO THIS SECTION, EXCLUDING CONSERVATION EASEMENTS NEGOTIATED PRIOR TO [THE EFFECTIVE DATE OF THIS ACT], MAY NOT EXCEED 25,000 ACRES."

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