

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 248

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 503 and 2132 (MCL 324.503 and 324.2132),
section 503 as amended by 2011 PA 65 and section 2132 as amended by
1998 PA 117.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 503. (1) The department shall protect and conserve the
2 natural resources of this state; provide and develop facilities for
3 outdoor recreation; prevent the destruction of timber and other
4 forest growth by fire or otherwise; promote the reforestation of
5 forestlands belonging to ~~the~~**THIS** state; prevent and guard against
6 the pollution of lakes and streams within ~~the~~**THIS** state and
7 enforce all laws provided for that purpose with all authority

1 granted by law; and foster and encourage the protecting and
2 propagation of game and fish.

3 (2) The department has the power and jurisdiction over the
4 management, control, and disposition of all land under the public
5 domain, except for those lands under the public domain that are
6 managed by other state agencies to carry out their assigned duties
7 and responsibilities. On behalf of the people of this state, the
8 department may accept gifts and grants of land and other property
9 and may buy, sell, exchange, or condemn land and other property,
10 for any of the purposes ~~contemplated by~~ **OF** this part. **BEGINNING 90**
11 **DAYS AFTER THE EFFECTIVE DATE OF THE 2012 AMENDATORY ACT THAT**
12 **AMENDED THIS SECTION, THE DEPARTMENT SHALL NOT ACQUIRE SURFACE**
13 **RIGHTS TO LAND UNLESS THE DEPARTMENT HAS ESTIMATED THE AMOUNT OF**
14 **ANNUAL PAYMENTS IN LIEU OF TAXES ON THE LAND, POSTED THE ESTIMATED**
15 **PAYMENTS ON ITS WEBSITE FOR AT LEAST 30 DAYS, AND NOTIFIED THE**
16 **AFFECTED LOCAL UNITS OF THE ESTIMATED PAYMENTS AT LEAST 30 DAYS**
17 **BEFORE THE ACQUISITION.**

18 (3) **BEFORE MAY 1, 2015, THE DEPARTMENT SHALL NOT ACQUIRE**
19 **SURFACE RIGHTS TO LAND IF THE DEPARTMENT OWNS, OR AS A RESULT OF**
20 **THE ACQUISITION WILL OWN, THE SURFACE RIGHTS TO MORE THAN 4,626,000**
21 **ACRES OF LAND.**

22 (4) **BEGINNING MAY 1, 2015, THE DEPARTMENT SHALL NOT ACQUIRE**
23 **SURFACE RIGHTS TO LAND NORTH OF THE MASON-ARENAC LINE IF THE**
24 **DEPARTMENT OWNS, OR AS A RESULT OF THE ACQUISITION WILL OWN, THE**
25 **SURFACE RIGHTS TO MORE THAN 3,910,000 ACRES OF LAND NORTH OF THE**
26 **MASON-ARENAC LINE. IT IS THE INTENTION OF THE LEGISLATURE, IF THE**
27 **LEGISLATURE APPROVES THE STRATEGIC PLAN, TO AMEND THIS SECTION TO**

1 REMOVE THE LIMITATION SET FORTH IN THIS SUBSECTION.

2 (5) FOR THE PURPOSES OF SUBSECTIONS (3) AND (4), THE NUMBER OF
3 ACRES OF LAND IN WHICH THE DEPARTMENT OWNS SURFACE RIGHTS DOES NOT
4 INCLUDE ANY OF THE FOLLOWING:

5 (A) LAND IN WHICH THE DEPARTMENT HAS A CONSERVATION EASEMENT.

6 (B) LAND PLATTED UNDER THE LAND DIVISION ACT, 1967 PA 288, MCL
7 560.101 TO 560.293, OR A PREDECESSOR ACT BEFORE THE EFFECTIVE DATE
8 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION IF ACQUIRED BY THE
9 DEPARTMENT BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
10 ADDED THIS SUBSECTION.

11 (C) ANY OF THE FOLLOWING IF ACQUIRED ON OR AFTER THE EFFECTIVE
12 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION:

13 (i) LAND WITH AN AREA OF NOT MORE THAN 80 ACRES, OR A RIGHT-OF-
14 WAY, FOR ACCESSING OTHER LAND OWNED BY THE DEPARTMENT.

15 (ii) A TRAIL, SUBJECT TO ALL OF THE FOLLOWING:

16 (A) IF THE TRAVELED PORTION OF THE TRAIL IS LOCATED WITHIN AN
17 ABANDONED RAILROAD RIGHT-OF-WAY, THE LAND EXCLUDED IS LIMITED TO
18 THE ABANDONED RAILROAD RIGHT-OF-WAY.

19 (B) IF THE TRAVELED PORTION OF THE TRAIL IS LOCATED IN A
20 UTILITY EASEMENT, THE LAND EXCLUDED IS LIMITED TO THE UTILITY
21 EASEMENT.

22 (C) IF SUB-SUBPARAGRAPHS (A) AND (B) DO NOT APPLY, THE LAND
23 EXCLUDED IS LIMITED TO THE TRAVELED PORTION OF THE TRAIL AND
24 CONTIGUOUS LAND. THE AREA OF THE CONTIGUOUS LAND SHALL NOT EXCEED
25 THE PRODUCT OF 100 FEET MULTIPLIED BY THE LENGTH OF THE TRAIL IN
26 FEET.

27 (iii) LAND THAT, ON THE EFFECTIVE DATE OF THE AMENDATORY ACT

1 THAT ADDED THIS SUBSECTION, WAS COMMERCIAL FORESTLAND AS DEFINED IN
2 SECTION 51101 IF THE LAND CONTINUES TO BE USED IN A MANNER
3 CONSISTENT WITH PART 511.

4 (iv) LAND ACQUIRED BY THE DEPARTMENT BY GIFT, INCLUDING THE
5 GIFT OF FUNDS SPECIFICALLY DEDICATED TO LAND ACQUISITION.

6 (v) LAND ACQUIRED BY THE DEPARTMENT THROUGH LITIGATION.

7 (6) THE DEPARTMENT SHALL MAINTAIN A RECORD OF LAND AS
8 DESCRIBED IN SUBSECTION (5) (A) TO (C). THE RECORD SHALL INCLUDE THE
9 LOCATION, ACREAGE, DATE OF ACQUISITION, AND USE OF THE LAND. THE
10 DEPARTMENT SHALL POST AND MAINTAIN ON ITS WEBSITE ALL OF THE
11 FOLLOWING INFORMATION:

12 (A) THE NUMBER OF ACRES OF LAND, INCLUDING LAND AS DESCRIBED
13 IN SUBSECTION (5), IN WHICH THE DEPARTMENT OWNS SURFACE RIGHTS
14 NORTH OF THE MASON-ARENAC LINE, SOUTH OF THE MASON-ARENAC LINE, IN
15 TOTAL FOR THIS STATE, AND BY PROGRAM.

16 (B) THE NUMBER OF ACRES OF LAND, EXCLUDING LAND AS DESCRIBED
17 IN SUBSECTION (5), IN WHICH THE DEPARTMENT OWNS SURFACE RIGHTS
18 NORTH OF THE MASON-ARENAC LINE, SOUTH OF THE MASON-ARENAC LINE, IN
19 TOTAL FOR THIS STATE, AND BY PROGRAM.

20 (7) BY OCTOBER 1, 2014, THE DEPARTMENT SHALL DEVELOP A WRITTEN
21 STRATEGIC PLAN TO GUIDE THE ACQUISITION AND DISPOSITION OF STATE
22 LANDS MANAGED BY THE DEPARTMENT, SUBMIT THE PLAN TO THE SENATE AND
23 HOUSE COMMITTEES WITH PRIMARY RESPONSIBILITY FOR NATURAL RESOURCES
24 AND OUTDOOR RECREATION AND THE CORRESPONDING APPROPRIATION
25 SUBCOMMITTEES, AND POST THE PLAN ON THE DEPARTMENT'S WEBSITE. IN
26 DEVELOPING THE PLAN, THE DEPARTMENT SHALL SOLICIT INPUT FROM THE
27 PUBLIC AND LOCAL UNITS OF GOVERNMENT.

1 (8) THE STRATEGIC PLAN SHALL DO ALL OF THE FOLLOWING:

2 (A) DIVIDE THIS STATE INTO REGIONS.

3 (B) IDENTIFY LANDS MANAGED BY THE DEPARTMENT IN EACH REGION.

4 (C) SET FORTH FOR EACH REGION MEASURABLE STRATEGIC PERFORMANCE
5 GOALS WITH RESPECT TO ALL OF THE FOLLOWING FOR LAND MANAGED BY THE
6 DEPARTMENT:

7 (i) MAXIMIZING AVAILABILITY OF POINTS OF ACCESS TO THE LAND AND
8 TO BODIES OF WATER ON OR ADJACENT TO THE LAND.

9 (ii) MAXIMIZING OUTDOOR RECREATION OPPORTUNITIES.

10 (iii) FORESTS.

11 (iv) WILDLIFE AND FISHERIES.

12 (D) TO ASSIST IN ACHIEVING THE GOALS SET FORTH IN THE
13 STRATEGIC PLAN PURSUANT TO SUBDIVISION (C), IDENTIFY ALL OF THE
14 FOLLOWING:

15 (i) LAND TO BE ACQUIRED.

16 (ii) LAND TO BE DISPOSED OF.

17 (iii) PLANS FOR NATURAL RESOURCE MANAGEMENT.

18 (E) TO THE EXTENT FEASIBLE, IDENTIFY PUBLIC LANDS IN EACH
19 REGION THAT ARE NOT MANAGED BY THE DEPARTMENT BUT AFFECT THE
20 ACHIEVEMENT OF THE GOALS SET FORTH IN THE STRATEGIC PLAN PURSUANT
21 TO SUBDIVISION (C).

22 (F) IDENTIFY WAYS THAT THE DEPARTMENT CAN BETTER COORDINATE
23 THE ACHIEVEMENT OF THE GOALS SET FORTH IN THE STRATEGIC PLAN
24 PURSUANT TO SUBDIVISION (C), RECOGNIZING THAT PUBLIC LANDS ARE
25 SUBJECT TO MULTIPLE USES AND BOTH MOTORIZED AND NONMOTORIZED USES.

26 (9) THE DEPARTMENT SHALL NOT IMPLEMENT THE STRATEGIC PLAN AS
27 IT APPLIES TO LAND NORTH OF THE MASON-ARENAC LINE. IT IS THE

1 INTENTION OF THE LEGISLATURE, IF THE LEGISLATURE APPROVES THE
2 STRATEGIC PLAN, TO AMEND THIS SECTION TO REMOVE THE PROHIBITION SET
3 FORTH IN THIS SUBSECTION. THE DEPARTMENT SHALL ANNUALLY REPORT ON
4 THE IMPLEMENTATION OF THE PLAN AND SUBMIT AND POST THE REPORT IN
5 THE MANNER PROVIDED IN SUBSECTION (7).

6 (10) BEGINNING 8 YEARS AFTER THE EFFECTIVE DATE OF THE
7 AMENDATORY ACT THAT ADDED THIS SUBSECTION AND EVERY 6 YEARS
8 THEREAFTER, THE DEPARTMENT SHALL UPDATE THE STRATEGIC PLAN AND
9 SUBMIT AND POST THE UPDATED PLAN IN THE MANNER PROVIDED IN
10 SUBSECTION (7). AT LEAST 60 DAYS BEFORE POSTING THE UPDATED PLAN,
11 THE DEPARTMENT SHALL PREPARE, SUBMIT, AND POST IN THE MANNER
12 PROVIDED IN SUBSECTION (7) A REPORT ON PROGRESS TOWARD THE GOALS
13 SET FORTH PURSUANT TO SUBSECTION (8) (C) IN PORTIONS OF THIS STATE
14 WHERE, SUBJECT TO SUBSECTION (9), THE PLAN IS BEING IMPLEMENTED AND
15 ANY PROPOSED CHANGES TO THE GOALS, INCLUDING THE RATIONALE FOR THE
16 CHANGES. THE SUBMITTAL AND POSTING SHALL INCLUDE DEPARTMENT CONTACT
17 INFORMATION FOR PERSONS WHO WISH TO COMMENT ON THE REPORT.

18 (11) AT LEAST 30 DAYS BEFORE ACQUIRING OR DISPOSING OF LAND,
19 THE DEPARTMENT SHALL SUBMIT TO THE SENATE AND HOUSE COMMITTEES WITH
20 PRIMARY RESPONSIBILITY FOR NATURAL RESOURCES AND OUTDOOR RECREATION
21 AND THE CORRESPONDING APPROPRIATIONS SUBCOMMITTEES A STATEMENT
22 IDENTIFYING THE LAND AND DESCRIBING THE EFFECT OF THE PROPOSED
23 TRANSACTION ON ACHIEVING THE GOALS SET FORTH IN THE STRATEGIC PLAN
24 PURSUANT TO SUBSECTION (8) (C). THE STATEMENT SHALL INCLUDE
25 DEPARTMENT CONTACT INFORMATION FOR PERSONS WHO WISH TO COMMENT ON
26 THE ACQUISITION OR DISPOSITION AND BE IN A STANDARD FORMAT. THE
27 DEPARTMENT SHALL ALSO POST THE STATEMENT ON ITS WEBSITE FOR AT

1 LEAST 30 DAYS BEFORE THE ACQUISITION OR DISPOSITION. THIS
2 SUBSECTION DOES NOT APPLY BEFORE THE DEPARTMENT SUBMITS THE PLAN TO
3 LEGISLATIVE COMMITTEES AS REQUIRED UNDER SUBSECTION (7).

4 (12) The department may accept funds, money, or grants for
5 development of salmon and steelhead trout fishing in this state
6 from the government of the United States, or any of its departments
7 or agencies, pursuant to the anadromous fish conservation act, 16
8 USC 757a to 757f, and may use this money in accordance with the
9 terms and provisions of that act. However, the acceptance and use
10 of federal funds does not commit state funds and does not place an
11 obligation upon the legislature to continue the purposes for which
12 the funds are made available.

13 (13) ~~(2)~~—The department may appoint persons to serve as
14 volunteers for the purpose of facilitating the responsibilities of
15 the department as provided in this part. Subject to the direction
16 of the department, a volunteer may use equipment and machinery
17 necessary for the volunteer service, including, but not limited to,
18 equipment and machinery to improve wildlife habitat on state game
19 areas.

20 (14) ~~(3)~~—The department may lease lands owned or controlled by
21 the department or may grant concessions on lands owned or
22 controlled by the department to any person for any purpose that the
23 department determines to be necessary to implement this part. In
24 granting a concession, the department shall provide that each
25 concession is awarded at least every 7 years based on extension,
26 renegotiation, or competitive bidding. However, if the department
27 determines that a concession requires a capital investment in which

1 reasonable financing or amortization necessitates a longer term,
2 the department may grant a concession for up to a 15-year term. A
3 concession granted under this subsection shall require, unless the
4 department authorizes otherwise, that all buildings and equipment
5 shall be removed at the end of the concession's term. Any lease
6 entered into under this subsection shall limit the purposes for
7 which the leased land is to be used and shall authorize the
8 department to terminate the lease upon a finding that the land is
9 being used for purposes other than those permitted in the lease.
10 Unless otherwise provided by law, money received from a lease or a
11 concession of tax reverted land shall be credited to the fund
12 providing financial support for the management of the leased land.
13 Money received from a lease of all other land shall be credited to
14 the fund from which the land was purchased. However, money received
15 from program-related leases on these lands shall be credited to the
16 fund providing financial support for the management of the leased
17 lands. For land managed by the forest management division of the
18 department, that fund is either the forest development fund
19 established pursuant to section 50507 or the forest recreation
20 account of the Michigan conservation and recreation legacy fund
21 provided for in section 2005. For land managed by the wildlife or
22 fisheries division of the department, that fund is the game and
23 fish protection account of the Michigan conservation and recreation
24 legacy fund provided for in section 2010.

25 (15) ~~(4)~~—When the department sells land, the deed by which the
26 land is conveyed may reserve all mineral, coal, oil, and gas rights
27 to ~~the~~**THIS** state only when the land is in production or is leased

1 or permitted for production, or when the department determines that
2 the land has unusual or sensitive environmental features or that it
3 is in the best interest of this state to reserve those rights as
4 determined by commission policy. However, the department shall not
5 reserve the rights to sand, gravel, clay, or other nonmetallic
6 minerals. When the department sells land that contains subsurface
7 rights, the department shall include a deed restriction that
8 restricts the subsurface rights from being severed from the surface
9 rights in the future. If the landowner severs the subsurface rights
10 from the surface rights, the subsurface rights revert to this
11 state. The deed may reserve to ~~the~~**THIS** state the right of ingress
12 and egress over and across land along watercourses and streams.
13 Whenever an exchange of land is made ~~, either~~ with the United
14 States government, a corporation, or an individual ~~, for~~ the
15 purpose of consolidating the state forest reserves, the department
16 may issue deeds without reserving to ~~the~~**THIS** state the mineral,
17 coal, oil, and gas rights and the rights of ingress and egress. The
18 department may sell the limestone, sand, gravel, or other
19 nonmetallic minerals. However, the department shall not sell a
20 mineral or nonmetallic mineral right if the sale would violate part
21 353, part 637, or any other provision of law. The department may
22 sell all reserved mineral, coal, oil, and gas rights to such lands
23 upon terms and conditions as the department considers proper and
24 may sell oil and gas rights as provided in part 610. The owner of
25 ~~such~~**THOSE** lands as shown by the records shall be given priority in
26 case the department authorizes any sale of ~~such~~**THOSE** lands, and,
27 unless the landowner waives ~~such rights~~**THAT PRIORITY**, the

1 department shall not sell such rights to any other person. For the
2 purpose of this section, mineral rights do not include rights to
3 sand, gravel, clay, or other nonmetallic minerals.

4 (16) ~~(5)~~—The department may enter into contracts for the sale
5 of the economic share of royalty interests it holds in hydrocarbons
6 produced from devonian or antrim shale qualifying for the
7 nonconventional ~~fuel~~**SOURCE PRODUCTION** credit ~~contained in~~
8 **DETERMINED UNDER** section ~~29-45K~~ of the internal revenue code of
9 1986, 26 USC ~~29-45K~~. However, in entering into these contracts, the
10 department shall assure that revenues to the natural resources
11 trust fund under these contracts are not less than the revenues the
12 natural resources trust fund would have received if the contracts
13 were not entered into. The sale of the economic share of royalty
14 interests under this subsection may occur under contractual terms
15 and conditions considered appropriate by the department and as
16 approved by the state administrative board. Funds received from the
17 sale of the economic share of royalty interests under this
18 subsection shall be transmitted to the state treasurer for deposit
19 in the state treasury as follows:

20 (a) Net proceeds allocable to the nonconventional ~~fuel~~**SOURCE**
21 **PRODUCTION** credit ~~contained in~~**DETERMINED UNDER** section ~~29-45K~~ of
22 the internal revenue code of 1986, 26 USC ~~29-45K~~, under this
23 subsection shall be credited to the environmental protection fund
24 created in section 503a.

25 (b) Proceeds related to the production of oil or gas from
26 devonian or antrim shale shall be credited to the natural resources
27 trust fund or other applicable fund as provided by law.

1 ~~———— (6) As used in subsection (5):~~

2 ~~———— (a) "Natural resources trust fund" means the Michigan natural~~
 3 ~~resources trust fund established in section 35 of article IX of the~~
 4 ~~state constitution of 1963 and provided for in section 1902.~~

5 ~~———— (b) "Net proceeds" means the total receipts received from the~~
 6 ~~sale of royalty interests under subsection (5) less costs related~~
 7 ~~to the sale. Costs may include, but are not limited to, legal,~~
 8 ~~financial advisory, geological or reserve studies, and accounting~~
 9 ~~services.~~

10 (17) ~~(7)~~ As used in this section:

11 (a) "Concession" means an agreement between the department and
 12 a person under terms and conditions as specified by the department
 13 to provide services or recreational opportunities for public use.

14 (b) "Lease" means a conveyance by the department to a person
 15 of a portion of ~~the~~ **THIS** state's interest in land under specific
 16 terms and for valuable consideration, thereby granting to the
 17 lessee the possession of that portion conveyed during the period
 18 stipulated.

19 (C) **"MASON-ARENAC LINE" MEANS THE LINE FORMED BY THE NORTH**
 20 **BOUNDARIES OF MASON, LAKE, OSCEOLA, CLARE, GLADWIN, AND ARENAC**
 21 **COUNTIES.**

22 (D) **"NATURAL RESOURCES TRUST FUND" MEANS THE MICHIGAN NATURAL**
 23 **RESOURCES TRUST FUND ESTABLISHED IN SECTION 35 OF ARTICLE IX OF THE**
 24 **STATE CONSTITUTION OF 1963 AND PROVIDED FOR IN SECTION 1902.**

25 (E) **"NET PROCEEDS" MEANS THE TOTAL RECEIPTS RECEIVED FROM THE**
 26 **SALE OF ROYALTY INTERESTS UNDER SUBSECTION (16) LESS COSTS RELATED**
 27 **TO THE SALE. COSTS MAY INCLUDE, BUT ARE NOT LIMITED TO, LEGAL,**

1 FINANCIAL ADVISORY, GEOLOGICAL OR RESERVE STUDIES, AND ACCOUNTING
2 SERVICES.

3 (F) "STRATEGIC PLAN" OR "PLAN" MEANS THE PLAN DEVELOPED UNDER
4 SUBSECTION (7).

5 Sec. 2132. (1) ~~The~~ SUBJECT TO SUBSECTION (2), THE department
6 may sell surplus land at a price ~~of not less than its fair market~~
7 ~~value as determined by an appraisal.~~ ESTABLISHED USING THE METHOD
8 THAT THE DEPARTMENT DETERMINES TO BE MOST APPROPRIATE, SUCH AS ANY
9 OF THE FOLLOWING:

10 (A) APPRAISAL.

11 (B) APPRAISAL CONSULTING.

12 (C) A SCHEDULE ADOPTED BY THE DEPARTMENT FOR PRICING PROPERTY
13 WITH UNIFORM CHARACTERISTICS AND LOW UTILITY.

14 (D) THE TRUE CASH VALUE OF NEARBY LAND AS DETERMINED BY THE
15 LOCAL ASSESSOR.

16 (2) IF THE DEPARTMENT OFFERS TAX REVERTED LAND FOR SALE AND
17 THE LAND IS NOT SOLD WITHIN 9 MONTHS, THE DEPARTMENT MAY SELL THE
18 LAND TO A QUALIFIED BUYER WHO SUBMITS AN OFFER THAT REPRESENTS A
19 REASONABLE PRICE FOR THE PROPERTY AS DETERMINED BY THE DEPARTMENT.

20 (3) ~~(2)~~ The sale of surplus land shall be conducted by the
21 department through 1 of the following methods:

22 (a) A ~~sealed or oral bid~~ public auction sale.

23 (b) A negotiated sale.

24 (4) ~~(3)~~ The SUBJECT TO SUBSECTION (1), THE sale of surplus
25 land through a ~~sealed or oral bid~~ public auction sale shall be to
26 the highest bidder. A bid shall not be accepted for less than the
27 fair market value of the surplus land as determined by an

1 ~~appraisal.~~

2 (5) ~~(4)~~—A notice of the sale of surplus land shall be given as
3 provided in section 2133.

4 (6) ~~(5)~~—The proceeds from the sale of surplus land shall be
5 deposited into the fund.

6 (7) ~~(6)~~—Surplus land that is sold under this subpart shall be
7 conveyed by quitclaim deed approved by the attorney general.