

# HOUSE BILL NO. 5388

October 13, 2021, Introduced by Reps. Howell, Markkanen, Wakeman, Martin, Sowerby, Eisen and Aiyash and referred to the Committee on Natural Resources and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 503 (MCL 324.503), as amended by 2018 PA 240.

**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 reforesting of  
5 forestlands belonging to this state; prevent and guard against the  
6 pollution of lakes and streams within this state and enforce all

1 laws provided for that purpose with all authority granted by law;  
2 and foster and encourage the protection and propagation of game and  
3 fish. Before issuing an order or promulgating a rule under this act  
4 that will designate or classify land managed by the department for  
5 any purpose, the department shall consider, in addition to any  
6 other matters required by law, all of the following:

7 (a) Providing for access to and use of the public land for  
8 recreation and tourism.

9 (b) The existence of or potential for natural resources-based  
10 industries, including forest management, mining, or oil and gas  
11 development on the public land.

12 (c) The potential impact of the designation or classification  
13 on private property in the immediate vicinity.

14 (2) The department has the power and jurisdiction over the  
15 management, control, and disposition of all land under the public  
16 domain, except for those lands under the public domain that are  
17 managed by other state agencies to carry out their assigned duties  
18 and responsibilities. On behalf of the people of this state, the  
19 department may accept gifts and grants of land and other property  
20 and may buy, sell, exchange, or condemn land and other property,  
21 for any of the purposes of this part.

22 (3) If any payment under subpart 13 or 14 of part 21 or  
23 section 51106 for land located north of the Mason-Arenac line is  
24 not made in full and on time during a fiscal year, then, until the  
25 end of that fiscal year, the department shall not purchase surface  
26 rights to land located north of the Mason-Arenac line unless 1 or  
27 both of the following apply:

28 (a) Full payment was made later during that fiscal year.

29 (b) The specific acquisition is approved by resolution adopted

1 by the following, as applicable:

2 (i) If the land is located in a single township, the township  
3 board.

4 (ii) If the land is located in 2 or more townships, the county  
5 board of commissioners of the county where the land is located.

6 (4) For the purposes of subsections (3) and (9), respectively,  
7 land in which the department acquires or owns surface rights does  
8 not include any of the following:

9 (a) Land acquired under an option agreement in effect on the  
10 date when the payment described in subsection (3) became due if the  
11 acquisition takes place within 120 days after the payment became  
12 due.

13 (b) Land in which the department has a conservation easement.

14 (c) Land that, before July 2, 2012, was platted under the land  
15 division act, 1967 PA 288, MCL 560.101 to 560.293, or a predecessor  
16 act and acquired by the department.

17 (d) Any of the following if acquired on or after July 2, 2012:

18 (i) Land with an area of not more than 80 acres, or a right-of-  
19 way, for accessing other land owned by the department or for  
20 accessing the waters of the state as defined in section 3101.

21 (ii) Land for a trail, subject to all of the following:

22 (A) If the traveled portion of the proposed trail is located  
23 within an abandoned railroad right-of-way, the land excluded is  
24 limited to the abandoned railroad right-of-way.

25 (B) If the traveled portion of the proposed trail is located  
26 in a utility easement, the land excluded is limited to the utility  
27 easement.

28 (C) If sub-subparagraphs (A) and (B) do not apply, the land  
29 excluded is limited to the traveled portion of the proposed trail

1 and contiguous land. For the purposes of the exclusion, the area of  
2 the contiguous land shall not exceed the product of 100 feet  
3 multiplied by the length of the proposed trail in feet.

4 (iii) Land that, on July 2, 2012 was commercial forestland as  
5 defined in section 51101 if the land continues to be used in a  
6 manner consistent with part 511.

7 (iv) Land acquired by the department by gift, including the  
8 gift of funds specifically dedicated to land acquisition.

9 (v) Land acquired by the department through litigation.

10 (5) The department shall maintain a record of land as  
11 described in subsection (4) (a) to (d). The record shall include the  
12 location, acreage, date of acquisition, and use of the land.

13 (6) By October 1, 2014, the department shall develop a written  
14 strategic plan to guide the acquisition and disposition of state  
15 lands managed by the department, submit the **strategic** plan to the  
16 relevant legislative committees, and post the **strategic** plan on the  
17 department's website. In developing the **strategic** plan, the  
18 department shall solicit input from the public and local units of  
19 government.

20 (7) The strategic plan shall do all of the following:

21 (a) Divide this state into regions.

22 (b) Identify lands managed by the department in each region.

23 (c) Set forth for each region measurable strategic performance  
24 goals with respect to all of the following for land managed by the  
25 department:

26 (i) Maximizing availability of points of access to the land and  
27 to bodies of water on or adjacent to the land.

28 (ii) Maximizing outdoor recreation opportunities.

29 (iii) Forests.

1 (iv) Wildlife and fisheries.

2 (d) To assist in achieving the goals set forth in the  
3 strategic plan ~~pursuant to~~**under** subdivision (c), identify all of  
4 the following:

5 (i) Land to be acquired.

6 (ii) Land to be disposed of.

7 (iii) Plans for natural resource management.

8 (e) To the extent feasible, identify public lands in each  
9 region that are not managed by the department but affect the  
10 achievement of the goals set forth in the strategic plan ~~pursuant~~  
11 ~~to~~**under** subdivision (c).

12 (f) Identify ways that the department can better coordinate  
13 the achievement of the goals set forth in the strategic plan  
14 ~~pursuant to~~**under** subdivision (c), recognizing that public lands  
15 are subject to multiple uses and both motorized and nonmotorized  
16 uses.

17 (g) Identify critical trail connectors to enhance motorized  
18 and nonmotorized natural-resource-dependent outdoor recreation  
19 activities for public enjoyment.

20 (8) The legislature approves the strategic plan entitled  
21 ~~"Department of Natural Resources Managed Public Land Strategy"~~  
22 ~~issued by the department and dated July 1, 2013.~~ **"The Power of**  
23 **Public Lands: Your resources. Our commitment. Michigan's legacy.**  
24 **Michigan Department of Natural Resources Public Land Strategy 2021-**  
25 **2027"**. The department shall implement the most recent legislatively  
26 approved strategic plan and shall not change the **strategic** plan  
27 except by a **strategic** plan update proposed ~~pursuant to~~**under**  
28 subsection (10) and subsequently approved by the legislature.

29 (9) The department shall annually submit to the relevant

1 legislative committees and post and annually update on the  
2 department's website all of the following:

3 (a) A report on the implementation of the **strategic** plan.

4 (b) The number of acres of land in which the department owns  
5 surface rights north of the Mason-Arenac line, south of the Mason-  
6 Arenac line, and in total for this state.

7 (c) Information on the total number of each of the following:

8 (i) Acres of land managed by the department.

9 (ii) Acres of state park and state recreation area land.

10 (iii) Acres of state game and state waterfowl areas.

11 (iv) Acres of land managed by the department and open for  
12 public hunting.

13 (v) Acres of state-owned mineral rights managed by the  
14 department that are under a development lease.

15 (vi) Acres of state forestland.

16 (vii) Public boating access sites managed by the department.

17 (viii) Miles of motorized trails managed by the department.

18 (ix) Miles of nonmotorized trails managed by the department.

19 (10) For legislative consideration and approval, as provided  
20 in subsection (8), by July 1, 2021, and every 6 years thereafter,  
21 the department shall propose an update to the strategic plan,  
22 submit the proposed updated **strategic** plan to the relevant  
23 legislative committees, and post the proposed updated **strategic**  
24 plan on the department's website. At least 60 days before posting  
25 the proposed updated **strategic** plan, the department shall prepare,  
26 submit to the relevant legislative committees, and post on the  
27 department's website a report that covers all of the following and  
28 includes department contact information for persons ~~who~~**that** wish  
29 to comment on the report:

1 (a) Progress toward the goals set forth in the strategic plan  
2 ~~pursuant to~~ **under** subsection (7)(c).

3 (b) Any proposed changes to the goals, including the rationale  
4 for the changes.

5 (c) The department's engagement and collaboration with local  
6 units of government.

7 (11) Subject to subsection (12), if land owned by this state  
8 and managed by the department, land owned by the federal  
9 government, and land that is commercial forestland as defined in  
10 section 51101 constitute 40% or more of the land in a county, the  
11 department shall not acquire land in that county if, not more than  
12 60 days after the department sent the notice of the proposed  
13 acquisition to the board under section 2165, the department  
14 receives a copy of a resolution rejecting the proposed acquisition  
15 adopted by the following, as applicable:

16 (a) If the land is located in a single township, the township  
17 board.

18 (b) If the land is located in 2 or more townships, the county  
19 board of commissioners.

20 (12) Subsection (11) does not apply to land described in  
21 subsection (4)(d).

22 (13) The department may accept funds, money, or grants for  
23 development of salmon and steelhead trout fishing in this state  
24 from the government of the United States, or any of its departments  
25 or agencies, pursuant to the anadromous fish conservation act, 16  
26 USC 757a to 757f, and may use this money in ~~accordance~~ **compliance**  
27 with the terms and provisions of that act. However, the acceptance  
28 and use of federal funds does not commit state funds and does not  
29 ~~place an obligation upon~~ **obligate** the legislature to continue the

1 purposes for which the funds are made available.

2 (14) The department may appoint ~~persons~~**individuals** to serve  
3 as volunteers to assist the department in meeting its  
4 responsibilities as provided in this part. Subject to the direction  
5 of the department, a volunteer may use equipment and machinery  
6 necessary for the volunteer service, including, but not limited to,  
7 equipment and machinery to improve wildlife habitat on state game  
8 areas.

9 (15) The department may lease lands owned or controlled by the  
10 department or may grant concessions on lands owned or controlled by  
11 the department to any person for any purpose that the department  
12 determines to be necessary to implement this part. The department  
13 shall grant each concession for a term of not more than 7 years  
14 based on extension, renegotiation, or competitive bidding. However,  
15 if the department determines that a concession requires a capital  
16 investment ~~in~~**for** which reasonable financing or amortization  
17 necessitates a longer term, the department may grant a concession  
18 for up to a 15-year term. A concession granted under this  
19 subsection shall require, unless the department authorizes  
20 otherwise, that all buildings and equipment be removed at the end  
21 of the concession's term. Any lease entered into under this  
22 subsection shall limit the purposes for which the leased land is to  
23 be used and shall authorize the department to terminate the lease  
24 ~~upon a finding~~**if the department finds** that the land is being used  
25 for purposes other than those permitted in the lease. Unless  
26 otherwise provided by law, money received from a lease or a  
27 concession of tax reverted land shall be credited to the fund  
28 providing financial support for the management of the leased land.  
29 Money received from a lease of any other land shall be credited to



1 the fund from which the land was purchased. However, money received  
2 from program-related leases on these lands shall be credited to the  
3 fund providing financial support for the management of the leased  
4 lands. For land managed by the forest management division of the  
5 department, that fund is either the forest development fund  
6 established pursuant to section 50507 or the forest recreation  
7 account of the Michigan conservation and recreation legacy fund  
8 provided for in section 2005. For land managed by the wildlife or  
9 fisheries division of the department, that fund is the game and  
10 fish protection account of the Michigan conservation and recreation  
11 legacy fund provided for in section 2010.

12 (16) ~~When-If~~ the department sells land, the deed may reserve  
13 all mineral, coal, oil, and gas rights to this state only if the  
14 land is in production or is leased or permitted for production, or  
15 if the department determines that the land has unusual or sensitive  
16 environmental features or that it is in the best interest of this  
17 state to reserve those rights as determined by commission policy.  
18 However, the department shall not reserve the rights to sand,  
19 gravel, clay, or other nonmetallic minerals. ~~When-If~~ the department  
20 sells land that contains subsurface rights, the department shall  
21 include a deed restriction that restricts the subsurface rights  
22 from being severed from the surface rights in the future. If the  
23 landowner severs the subsurface rights from the surface rights, the  
24 subsurface rights revert to this state. The deed may reserve to  
25 this state the right of ingress and egress over and across land  
26 along watercourses and streams. ~~Whenever-If~~ an exchange of land is  
27 made with the United States government, a corporation, or an  
28 individual ~~for the purpose of consolidating~~ **to consolidate** the  
29 state forest reserves, the department may issue deeds without

1 reserving to this state the mineral, coal, oil, and gas rights and  
2 the rights of ingress and egress. The department may sell the  
3 limestone, sand, gravel, or other nonmetallic minerals. However,  
4 the department shall not sell a mineral or nonmetallic mineral  
5 right if the sale would violate part 353, part 637, or any other  
6 provision of law. The department may sell all reserved mineral,  
7 coal, oil, and gas rights to such lands ~~upon~~**under** terms and  
8 conditions ~~as~~**that** the department considers proper and may sell oil  
9 and gas rights as provided in part 610. The owner of those lands as  
10 shown by the records shall be given priority ~~in case~~**if** the  
11 department authorizes any sale of those ~~lands,~~**rights,** and, unless  
12 the landowner waives that priority, the department shall not sell  
13 ~~such~~**those** rights to any other person. For the purpose of this  
14 section, mineral rights do not include rights to sand, gravel,  
15 clay, or other nonmetallic minerals.

16 (17) The department may enter into contracts for the sale of  
17 the economic share of royalty interests it holds in hydrocarbons  
18 produced from devonian or antrim shale qualifying for the  
19 nonconventional source production credit determined under section  
20 45k of the internal revenue code of 1986, 26 USC 45k. However, in  
21 entering into these contracts, the department shall ensure that  
22 revenues to the natural resources trust fund under these contracts  
23 are not less than the revenues the natural resources trust fund  
24 would have received if the contracts were not entered into. The  
25 sale of the economic share of royalty interests under this  
26 subsection may occur under contractual terms and conditions  
27 considered appropriate by the department and as approved by the  
28 state administrative board. Funds received from the sale of the  
29 economic share of royalty interests under this subsection shall be

1 transmitted to the state treasurer for deposit in the state  
2 treasury as follows:

3 (a) Net proceeds allocable to the nonconventional source  
4 production credit determined under section 45k of the internal  
5 revenue code of 1986, 26 USC 45k, under this subsection shall be  
6 credited to the environmental protection fund created in section  
7 503a.

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

11 (18) As used in this section:

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

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

20 (c) "Mason-Arenac line" means the line formed by the north  
21 boundaries of Mason, Lake, Osceola, Clare, Gladwin, and Arenac  
22 Counties.

23 (d) "Natural resources trust fund" means the Michigan natural  
24 resources trust fund established in section 35 of article IX of the  
25 state constitution of 1963 and provided for in section 1902.

26 (e) "Net proceeds" means the total receipts received from the  
27 sale of royalty interests under subsection (17) less costs related  
28 to the sale. Costs may include, but are not limited to, legal,  
29 financial advisory, geological or reserve studies, and accounting

1 services.

2 (f) "Relevant legislative committees" means the senate and  
3 house committees with primary responsibility for natural resources  
4 and outdoor recreation and the corresponding appropriation  
5 subcommittees.

6 (g) "Strategic plan" ~~or "plan"~~ means the plan developed under  
7 subsection (6), as updated under subsection (10), if applicable.