

**SUBSTITUTE FOR
HOUSE BILL NO. 4061**

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 1996 PA 133 and section 2132 as added
by 1995 PA 60, and by adding part 610.

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
3 for outdoor recreation; prevent the destruction of timber and
4 other forest growth by fire or otherwise; promote the reforestation
5 of forest lands belonging to the state; prevent and guard against
6 the pollution of lakes and streams within the state and enforce
7 all laws provided for that purpose with all authority granted by
8 law; and foster and encourage the protecting and propagation of
9 game and fish. The department has the power and jurisdiction

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1 over the management, control, and disposition of all land under
2 the public domain, except for those lands under the public domain
3 that are managed by other state agencies to carry out their
4 assigned duties and responsibilities. On behalf of the people of
5 the state, the department may accept gifts and grants of land and
6 other property and may buy, sell, exchange, or condemn land and
7 other property, for any of the purposes contemplated by this
8 part. The department may accept funds, money, or grants for
9 development of salmon and steelhead trout fishing in this state
10 from the government of the United States, or any of its depart-
11 ments or agencies, pursuant to the anadromous fish conservation
12 act, Public Law 89-304, 16 U.S.C. 757a to 757g, and may use this
13 money in accordance with the terms and provisions of that act.
14 However, the acceptance and use of federal funds does not commit
15 state funds and does not place an obligation upon the legislature
16 to continue the purposes for which the funds are made available.

17 (2) The department may lease lands owned or controlled by it
18 that have been designated for use for recreational purposes, but
19 only to responsible legal units, within this state, of national
20 or state recognized groups devoted principally to development of
21 character and citizenship training and physical fitness of youth,
22 the financial support of which is by voluntary public subscrip-
23 tions or contributions, and the property of which is exempt from
24 taxation under the laws of this state. The department may lease
25 land in the Porcupine mountain state park to third parties for
26 purposes as it considers desirable. Any lease entered into under
27 this subsection shall limit the purposes for which the leased

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1 land is to be used and shall authorize the department to
2 terminate the lease upon a finding that the land is being used
3 for purposes other than those permitted in the lease.

4 (3) When ~~any sales of land are made by~~ the department
5 SELLS LAND, the ~~deeds~~ DEED by which ~~lands are~~ THE LAND IS
6 conveyed ~~may~~ SHALL reserve all mineral, coal, oil, and gas
7 rights to the state ~~, but~~ ONLY WHEN THE LAND IS IN PRODUCTION
8 OR IS LEASED OR PERMITTED FOR PRODUCTION. HOWEVER, THE
9 DEPARTMENT shall not reserve the rights to sand, gravel, clay, or
10 other nonmetallic minerals. ~~The department shall also have the~~
11 ~~power to provide that all deeds issued for lands along water-~~
12 ~~courses and streams shall contain a clause reserving the right of~~
13 ~~ingress and egress over and across the lands.~~ WHEN THE DEPART-
14 MENT SELLS LAND THAT CONTAINS SUBSURFACE RIGHTS, THE DEPARTMENT
15 SHALL INCLUDE A DEED RESTRICTION THAT RESTRICTS THE SUBSURFACE
16 RIGHTS FROM BEING SEVERED FROM THE SURFACE RIGHTS IN THE FUTURE.
17 THE DEED MAY RESERVE TO THE STATE THE RIGHT OF INGRESS AND EGRESS
18 OVER AND ACROSS LAND ALONG WATERCOURSES AND STREAMS. Whenever an
19 exchange of land is made, either with the United States govern-
20 ment, a corporation, or an individual, for the purpose of consol-
21 idating the state forest reserves, the department may issue deeds
22 without reserving to the state the mineral, coal, oil, and gas
23 rights and the rights of ingress and egress. The department may
24 sell the limestone, sand, gravel, or other nonmetallic minerals.
25 However, the department shall not sell a mineral or nonmetallic
26 mineral right if the sale would violate part 353 ~~(sand dune~~
27 ~~protection and management)~~ of Act No. ~~451 of the Public Acts of~~

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1 ~~1994, being sections 324.35301 to 324.35326 of the Michigan~~
2 ~~Compiled Laws, or part 637 (sand dune mining) of Act No. 451 of~~
3 ~~the Public Acts of 1994, being sections 324.63701 to 324.63714 of~~
4 ~~the Michigan Compiled Laws,~~ or any other provision of law. The
5 department may sell all reserved mineral, coal, oil, and gas
6 rights to such lands upon terms and conditions as the department
7 considers proper AND SHALL SELL OIL AND GAS RIGHTS AS PROVIDED IN
8 PART 610. The owner of such lands as shown by the records shall
9 be given priority in case the department authorizes any sale of
10 such lands, and, unless the landowner waives such rights, the
11 department shall not sell such rights to any other person. For
12 the purpose of this section, mineral rights do not include rights
13 to sand, gravel, clay, or other nonmetallic minerals.

14 (4) The department may enter into contracts for the sale of
15 the economic share of royalty interests it holds in hydrocarbons
16 produced from devonian or antrim shale qualifying for the noncon-
17 ventional fuel credit contained in section 29 of the internal
18 revenue code of 1986, 26 U.S.C. 29. However, in entering into
19 these contracts, the department shall assure that revenues to the
20 natural resources trust fund under these contracts are not less
21 than the revenues the natural resources trust fund would have
22 received if the contracts were not entered into. The sale of the
23 economic share of royalty interests under this subsection may
24 occur under contractual terms and conditions considered appropri-
25 ate by the department and as approved by the state administrative
26 board. Funds received from the sale of the economic share of
27 royalty interests under this subsection shall be transmitted to

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

3 (a) Net proceeds allocable to the nonconventional fuel
4 credit contained in section 29 of the internal revenue code of
5 1986, 26 U.S.C. 29, under this subsection shall be credited to
6 the environmental protection fund created in section 503a.

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

11 (5) As used in subsection (4):

12 (a) "Natural resources trust fund" means the Michigan natu-
13 ral resources trust fund established in section 35 of article IX
14 of the state constitution of 1963 and provided for in
15 section 1902.

16 (b) "Net proceeds" means the total receipts received from
17 the sale of royalty interests under subsection (4) less costs
18 related to the sale. Costs may include, but are not limited to,
19 legal, financial advisory, geological or reserve studies, and
20 accounting services.

21 Sec. 2132. (1) The department may sell surplus land at a
22 price of not less than its fair market value as determined by an
23 appraisal.

24 (2) The sale of surplus land shall be conducted by the
25 department through 1 of the following methods:

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

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1 (b) A negotiated sale.

2 (3) The sale of surplus land through a sealed or oral bid
3 public auction sale shall be to the highest bidder. A bid shall
4 not be accepted for less than the fair market value of the sur-
5 plus land as determined by an appraisal.

6 (4) A notice of the sale of surplus land shall be given as
7 provided in section 2133.

8 (5) The proceeds from the sale of surplus land shall be
9 deposited into the fund.

10 (6) Surplus land that is sold under this subpart shall be
11 conveyed by quitclaim deed approved by the attorney general. ~~and~~
12 ~~shall reserve to the state all rights to coal, oil, gas, and~~
13 ~~other minerals, excluding sand and gravel, found on, within, and~~
14 ~~under the land.~~

15 PART 610

16 UNIFIED SURFACE AND SUBSURFACE OIL OR GAS OWNERSHIP

17 SEC. 61001. AS USED IN THIS PART:

18 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES.

19 (B) "FUND" MEANS THE UNIFIED PROPERTY RIGHTS FUND CREATED IN
20 SECTION 61005.

21 (C) "SEVERED OIL AND GAS RIGHTS" MEANS THOSE SUBSURFACE OIL
22 AND GAS RIGHTS HELD BY THE DEPARTMENT ON LAND IN WHICH THE
23 DEPARTMENT DOES NOT OWN THE SURFACE RIGHTS TO THE LAND.

24 SEC. 61002. WITHIN 3 YEARS AFTER THE EFFECTIVE DATE OF THIS
25 SECTION, THE DEPARTMENT SHALL COMPLETE AN INVENTORY OF ALL LAND
26 UNDER THE JURISDICTION OF THE DEPARTMENT AND SHALL CATEGORIZE THE
27 LAND AS FOLLOWS:

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1 (A) ALL LAND IN WHICH THE DEPARTMENT OWNS BOTH THE SURFACE
2 RIGHTS AND THE OIL AND GAS RIGHTS.

3 (B) ALL LAND IN WHICH THE DEPARTMENT OWNS THE SURFACE RIGHTS
4 BUT NOT THE OIL AND GAS RIGHTS.

5 (C) ALL LAND IN WHICH THE DEPARTMENT OWNS THE OIL AND GAS
6 RIGHTS BUT NOT THE SURFACE RIGHTS.

7 SEC. 61003. (1) THE DEPARTMENT SHALL IMPLEMENT PROCEDURES
8 IN COMPLIANCE WITH THIS PART THAT PROVIDE FOR THE DEPARTMENT, [
9 AFTER CONSULTATION WITH THE NATURAL RESOURCE TRUST FUND BOARD AND
APPROVAL OF THE NATURAL RESOURCE COMMISSION], TO DIVEST ITSELF OF
SEVERED OIL AND GAS RIGHTS AND
10 REUNITE THE OIL AND GAS RIGHTS WITH THE SURFACE RIGHTS. THE
11 DEPARTMENT IS NOT REQUIRED TO DIVEST ITSELF OF OIL AND GAS RIGHTS
12 TO LAND THAT IS IN PRODUCTION OR IS LEASED OR PERMITTED FOR PRO-
13 DUCTION, OR TO LAND IN WHICH THE DEPARTMENT DETERMINES HAS
14 UNUSUAL ENVIRONMENTAL FEATURES OF EXCEPTIONAL SENSITIVITY THAT
15 SHOULD BE RESERVED BY THE STATE AND MAINTAINED IN AN UNDEVELOPED
16 STATE.

17 (2) WHEN THE DEPARTMENT TRANSFERS OIL AND GAS RIGHTS UNDER
18 THIS PART, THE DEPARTMENT SHALL INCLUDE A DEED RESTRICTION THAT
19 RESTRICTS THE OIL AND GAS RIGHTS FROM BEING SEVERED FROM THE SUR-
20 FACE RIGHTS IN THE FUTURE.

21 SEC. 61004. (1) THE DEPARTMENT SHALL DIVEST ITSELF OF
22 SEVERED OIL AND GAS RIGHTS ON A COUNTY-BY-COUNTY BASIS. THE
23 DEPARTMENT SHALL PRIORITIZE COUNTIES IN THE ORDER IN WHICH IT
24 INTENDS TO OFFER DIVESTITURE SALES OR TRANSFERS PURSUANT TO THIS
25 PART.

26 (2) PRIOR TO DIVESTING ITSELF OF SEVERED OIL AND GAS RIGHTS,
27 THE DEPARTMENT SHALL DEVELOP A PLAN FOR ATTACHING A MONETARY

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1 VALUE TO THOSE RIGHTS BASED UPON CURRENT MARKET CONDITIONS.

2 ADDITIONALLY, THE DEPARTMENT MAY TRADE SEVERED OIL AND GAS RIGHTS
3 FOR OTHER LAND OR RIGHTS IN LAND IF SUCH A TRADE IS IN THE BEST
4 INTEREST OF THE STATE. FOR LAND HELD BY A LOCAL UNIT OF GOVERN-
5 MENT, AND FOR PARCELS OF LAND SMALLER THAN 5 ACRES IN SIZE, THE
6 DEPARTMENT SHALL TRANSFER THE OIL AND GAS RIGHTS FOR THE COST OF
7 PROCESSING THE TRANSACTION.

8 (3) IN EACH COUNTY IN WHICH THE DEPARTMENT OFFERS TO SELL OR
9 TRANSFER SEVERED OIL AND GAS RIGHTS, THE DEPARTMENT SHALL NOTIFY
10 THE OWNER OF SURFACE RIGHTS OR THE PROPERTY TAXPAYER OF THE
11 OPPORTUNITY TO OBTAIN THE SEVERED OIL AND GAS RIGHTS. THE NOTICE
12 SHALL INCLUDE AN OFFER TO SELL THE SEVERED OIL AND GAS RIGHTS TO
13 THE SURFACE OWNER AT A DESIGNATED PRICE FOR A PERIOD OF 90 DAYS.
14 A LANDOWNER WHO DESIRES TO ACCEPT THE DEPARTMENT'S OFFER TO SELL
15 OR TRANSFER THE SEVERED OIL AND GAS RIGHTS SHALL PROVIDE THE
16 DEPARTMENT WITH A COPY OF A RECORDED DEED SHOWING THE PERSON'S
17 OWNERSHIP OF THE LAND. A TRANSFER OF SEVERED OIL AND GAS RIGHTS
18 BY THE DEPARTMENT TO ANYONE OTHER THAN THE OWNER OF THE SURFACE
19 RIGHTS IS VOID. FURTHERMORE, A PERSON WHO ATTEMPTS TO PURCHASE
20 OIL AND GAS RIGHTS FROM THE DEPARTMENT WHO IS NOT THE SURFACE
21 OWNER FORFEITS ANY MONEY GIVEN TO THE DEPARTMENT.

22 (4) AFTER THE 90-DAY PERIOD DESCRIBED IN SUBSECTION (3), THE
23 SURFACE OWNER OR A SUBSEQUENT SURFACE OWNER MAY PETITION THE
24 DEPARTMENT FOR SALE OF THE SEVERED OIL AND GAS RIGHTS AT A PRICE
25 AGREEABLE TO THE DEPARTMENT.

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1 (5) THE DEPARTMENT SHALL COMPLETE THE DIVESTITURE OF THE
2 FIRST 2 COUNTIES ON ITS PRIORITY LIST UNDER SUBSECTION (1) WITHIN
3 3 YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION.

4 (6) ALL MONEY RECEIVED BY THE DEPARTMENT FOR THE SALE OR
5 TRANSFER OF OIL OR GAS RIGHTS PURSUANT TO THIS PART SHALL BE FOR-
6 WARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND.

7 SEC. 61005. (1) THE UNIFIED PROPERTY RIGHTS FUND IS CREATED
8 WITHIN THE STATE TREASURY.

9 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
10 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND AND SPECIFICALLY SHALL
11 RECEIVE FUNDS GENERATED FROM THE SALE OF MINERAL RIGHTS UNDER
12 SECTION 61001. THE STATE TREASURER SHALL DIRECT THE INVESTMENT
13 OF THE FUND. THE STATE TREASURER SHALL CREDIT TO THE FUND INTER-
14 EST AND EARNINGS FROM FUND INVESTMENTS.

15 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
16 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

17 (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON
18 APPROPRIATION, ONLY FOR 1 OR MORE OF THE FOLLOWING PURPOSES:

19 (A) TO PURCHASE THE SEVERED OIL AND GAS RIGHTS AND OTHER
20 SUBSURFACE RIGHTS FOR PROPERTY IN WHICH THE STATE OWNS THE SUR-
21 FACE RIGHTS BUT FOR WHICH THE STATE DOES NOT OWN THE SUBSURFACE
22 RIGHTS.

23 (B) TO PAY FOR THE DEPARTMENT'S COSTS OF ADMINISTERING THIS
24 PART. HOWEVER, THE DEPARTMENT'S ADMINISTRATIVE COSTS UNDER THIS
25 SUBDIVISION SHALL NOT EXCEED 15 PERCENT OF THE AMOUNT OF MONEY
26 RECEIVED BY THE DEPARTMENT UNDER THIS PART THROUGH THE SALE OF
27 SEVERED OIL AND GAS RIGHTS.

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1 (5) IF, AT THE CLOSE OF THE STATE FISCAL YEAR, THE BALANCE
2 OF THE FUND EXCEEDS \$500,000.00, THAT PORTION OF THE MONEY IN THE
3 FUND THAT EXCEEDS \$500,000.00 SHALL BE TRANSFERRED TO THE
4 MICHIGAN NATURAL RESOURCES TRUST FUND CREATED IN PART 19.