

# SENATE BILL No. 969

February 10, 2004, Introduced by Senators McMANUS, JELINEK, CROPSEY, BIRKHZOLZ, KUIPERS, ALLEN, HARDIMAN, GOSCHKA, GARCIA, PRUSI, STAMAS, BARCIA and CHERRY and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 503 and 1907 (MCL 324.503 and 324.1907), section 503 as amended by 1998 PA 419 and section 1907 as added by 1995 PA 60.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 503. (1) The department shall ~~protect~~ **do all of the**  
 2 **following:**

3           **(a) Protect** and conserve the natural resources of this state.  
 4 ~~→, provide~~

5           **(b) Provide** and develop facilities for outdoor recreation. ~~→~~  
 6 ~~prevent~~

7           **(c) Prevent** the destruction of timber and other forest growth  
 8 by fire or otherwise. ~~→, promote~~

9           **(d) Promote** the reforesting of forest lands belonging to the

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1 state. ~~—, prevent~~

2       **(e) Prevent** and guard against the pollution of lakes and  
3 streams within the state and enforce all laws provided for that  
4 purpose with all authority granted by law. ~~—, and foster~~

5       **(f) Foster** and encourage the ~~protecting~~ **protection** and  
6 propagation of game and fish.

7       **(2)** The department has the power and jurisdiction ~~over the~~  
8 ~~management, control, and disposition~~ **to manage, control, and**  
9 **dispose** of all land under the public domain, except for those  
10 lands under the public domain that are managed by other state  
11 agencies to carry out their assigned duties and  
12 responsibilities. On behalf of the people of the state, the  
13 department may accept gifts and grants of land and other property  
14 and may buy, sell, exchange, or condemn land and other property,  
15 for any of the purposes contemplated by this part. **Before**  
16 **acquiring land, the department, in consultation with the**  
17 **department of management and budget, shall prepare and consider a**  
18 **written analysis of all of the following:**

19       **(a)** The long-term costs of maintaining the land, including,  
20 but not limited to, payments under part 21.

21       **(b)** The state's ability to pay costs identified under  
22 subdivision (a).

23       **(c)** A justification for acquiring the land in light of the  
24 analysis's conclusions under subdivisions (a) and (b).

25       **(3)** The department may accept funds, money, or grants for  
26 development of salmon and steelhead trout fishing in this state  
27 from the government of the United States, or any of its

1 departments or agencies, pursuant to the anadromous fish  
2 conservation act, ~~Public Law 89-304, 16 U.S.C.~~ **16 USC** 757a to  
3 757f, and may use this money ~~in accordance with~~ **subject to** the  
4 terms and provisions of that act. However, the acceptance and  
5 use of federal funds does not commit state funds and does not  
6 place an obligation upon the legislature to continue the purposes  
7 for which the funds are made available.

8       **(4)** ~~—(2)—~~ The department may lease lands owned or controlled  
9 by the department or may grant concessions on lands owned or  
10 controlled by the department to any person for any purpose that  
11 the department determines to be necessary to implement this  
12 part. In granting a concession, the department shall provide  
13 that each concession is awarded at least every 7 years based on  
14 extension, renegotiation, or competitive bidding. However, if  
15 the department determines that a concession requires a capital  
16 investment in 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 shall be removed at  
21 the end of the concession's term. Any lease entered into under  
22 this subsection shall limit the purposes for which the leased  
23 land is to be used and shall authorize the department to  
24 terminate the lease upon a finding 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

1 providing financial support for the management of the leased  
2 land. Money received from a lease of all other land shall be  
3 credited to the fund from which the land was purchased. However,  
4 money received from program-related leases on these lands shall  
5 be credited to the fund providing financial support for the  
6 management of the leased lands, ~~— For land managed by the~~  
7 ~~forest management division of the department of natural~~  
8 ~~resources, that fund is either~~ **such as** the forest development  
9 fund established pursuant to ~~part 505 or~~ **section 50507**, the  
10 forest recreation fund created in ~~part 831.~~ ~~For land managed by~~  
11 ~~the wildlife or fisheries division of the department of natural~~  
12 ~~resources, that fund is~~ **section 83104**, or the game and fish  
13 protection fund created in ~~part 435~~ **section 43553**, as  
14 **applicable.**

15 (5) ~~(3)~~ When the department sells land, the deed by which  
16 the land is conveyed may reserve all mineral, coal, oil, and gas  
17 rights to the state only when the land is in production or is  
18 leased or permitted for production, or when the department  
19 determines that the land has unusual or sensitive environmental  
20 features or that it is in the best interest of this state to  
21 reserve those rights as determined by commission policy.  
22 However, the department shall not reserve the rights to sand,  
23 gravel, clay, or other nonmetallic minerals. When the department  
24 sells land that contains subsurface rights, the department shall  
25 include a deed restriction that restricts the subsurface rights  
26 from being severed from the surface rights in the future. If the  
27 landowner severs the subsurface rights from the surface rights,

1 the subsurface rights revert to this state. The deed may reserve  
2 to the state the right of ingress and egress over and across land  
3 along watercourses and streams. Whenever an exchange of land is  
4 made, either with the United States government, a corporation, or  
5 an individual, for the purpose of consolidating the state forest  
6 reserves, the department may issue deeds without reserving to the  
7 state the mineral, coal, oil, and gas rights and the rights of  
8 ingress and egress. The department may sell the limestone, sand,  
9 gravel, or other nonmetallic minerals. However, the department  
10 shall not sell a mineral or nonmetallic mineral right if the sale  
11 would violate part 353, part 637, or any other provision of law.  
12 The department may sell all reserved mineral, coal, oil, and gas  
13 rights to such lands upon terms and conditions as the department  
14 considers proper and may sell oil and gas rights as provided in  
15 part 610. The owner of such lands as shown by the records shall  
16 be given priority in case the department authorizes any sale of  
17 such ~~lands~~ **rights**, and, unless the landowner waives ~~such~~  
18 ~~rights~~ **the priority**, the department shall not sell ~~such~~ **the**  
19 rights to any other person. For the purpose of this section,  
20 mineral rights do not include rights to sand, gravel, clay, or  
21 other nonmetallic minerals.

22 (6) ~~(4)~~ The department may enter into contracts for the  
23 sale of the economic share of royalty interests it holds in  
24 hydrocarbons produced from devonian or antrim shale qualifying  
25 for the nonconventional fuel credit contained in section 29 of  
26 the internal revenue code, ~~of 1986~~ **26 USC 29**. However, in  
27 entering into these contracts, the department shall assure that

1 revenues to the natural resources trust fund under these  
2 contracts are not less than the revenues the natural resources  
3 trust fund would have received if the contracts were not entered  
4 into. The sale of the economic share of royalty interests under  
5 this subsection may occur under contractual terms and conditions  
6 considered appropriate by the department and as approved by the  
7 state administrative board. Funds received from the sale of the  
8 economic share of royalty interests under this subsection shall  
9 be transmitted to the state treasurer for deposit in the state  
10 treasury as follows:

11 (a) Net proceeds allocable to the nonconventional fuel credit  
12 contained in section 29 of the internal revenue code, ~~of 1986~~  
13 **26 USC 29**, under this subsection shall be credited to the  
14 environmental protection fund created in section 503a.

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

19 (7) ~~(5)~~ As used in subsection ~~(4)~~ (6):

20 (a) "Natural resources trust fund" means the Michigan natural  
21 resources trust fund established in section 35 of article IX of  
22 the state constitution of 1963 and provided for in section 1902.

23 (b) "Net proceeds" means the total receipts received from the  
24 sale of royalty interests under subsection ~~(4)~~ (6) less costs  
25 related to the sale. Costs may include, but are not limited to,  
26 legal, financial advisory, geological or reserve studies, and  
27 accounting services.

1           (8) ~~—(6)—~~ As used in this section:

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

6           (b) "Lease" means a conveyance by the department to a person  
7 of a portion of the state's interest in land under specific terms  
8 and for valuable consideration, thereby granting to the lessee  
9 the possession of that portion conveyed during the period  
10 stipulated.

11           Sec. 1907. (1) The board shall determine which lands and  
12 rights in land within the state should be acquired and which  
13 public recreation facilities should be developed with money from  
14 the trust fund. ~~—and—~~ **The board shall prepare, annually review,**  
15 **and, if advisable, update a long-term spending plan for money**  
16 **from the trust fund. Before the board determines which lands or**  
17 **rights in land should be acquired with money from the trust fund,**  
18 **the board shall consider the long-term spending plan and shall**  
19 **prepare, in consultation with the department of management and**  
20 **budget, and consider a written analysis of all of the following:**

21           (a) The long-term costs of maintaining each of the lands or  
22 rights in land, including, but not limited to, payments under  
23 part 21.

24           (b) The state's ability to pay costs identified under  
25 subdivision (a).

26           (c) A justification for acquiring each of the lands in light  
27 of the long-term spending plan and the written analysis's

1 **conclusions under subdivisions (a) and (b).**

2       (2) **The board** shall submit to the legislature in January of  
3 each year a list of those lands and rights in land and those  
4 public recreation facilities that the board has determined should  
5 be acquired or developed with trust fund money, compiled in order  
6 of priority. ~~—(2)—~~ This list shall be accompanied by estimates  
7 of total costs for the proposed acquisitions and developments **and**  
8 **long-term costs of maintenance of proposed acquisitions.**

9       (3) The board shall supply with each list a statement of the  
10 guidelines used in listing and assigning the priority of these  
11 proposed acquisitions and developments **and the long-term plan and**  
12 **written analysis under subsection (1).**

13       (4) The legislature shall approve by law the lands and rights  
14 in land and the public recreation facilities to be acquired or  
15 developed each year with money from the trust fund.