

**SENATE 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 reserve all mineral, coal, oil, and gas rights to  
7 the state ~~, but~~ ONLY WHEN THE LAND IS IN PRODUCTION OR IS  
8 LEASED OR PERMITTED FOR PRODUCTION, OR WHEN THE DEPARTMENT DETER-  
9 MINES THAT THE LAND HAS UNUSUAL OR SENSITIVE ENVIRONMENTAL FEATURES  
OR THAT IT IS IN THE BEST INTEREST OF THIS STATE TO RESERVE THOSE  
RIGHTS AS DETERMINED BY COMMISSION POLICY.  
10 HOWEVER, THE DEPARTMENT shall not reserve the rights to sand,  
11 gravel, clay, or other nonmetallic minerals. ~~The department~~  
12 ~~shall also have the power to provide that all deeds issued for~~  
13 ~~lands along watercourses and streams shall contain a clause~~  
14 ~~reserving the right of ingress and egress over and across the~~  
15 ~~lands.~~ WHEN THE DEPARTMENT SELLS LAND THAT CONTAINS SUBSURFACE  
16 RIGHTS, THE DEPARTMENT SHALL INCLUDE A DEED RESTRICTION THAT  
17 RESTRICTS THE SUBSURFACE RIGHTS FROM BEING SEVERED FROM THE SUR-  
18 FACE RIGHTS IN THE FUTURE. IF THE LANDOWNER SEVERS THE SUBSURFACE  
RIGHTS FROM THE SURFACE RIGHTS, THE SUBSURFACE RIGHTS REVERT TO THIS  
STATE. THE DEED MAY RESERVE TO THE STATE THE  
19 RIGHT OF INGRESS AND EGRESS OVER AND ACROSS LAND ALONG WATER-  
20 COURSES AND STREAMS. Whenever an exchange of land is made, either  
21 with the United States government, a corporation, or an individu-  
22 al, for the purpose of consolidating the state forest reserves,  
23 the department may issue deeds without reserving to the state the  
24 mineral, coal, oil, and gas rights and the rights of ingress and  
25 egress. The department may sell the limestone, sand, gravel, or  
26 other nonmetallic minerals. However, the department shall not  
27 sell a mineral or nonmetallic mineral right if the sale would

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1 violate part 353 ~~(sand dune protection and management)~~ of Act  
2 No. ~~451 of the Public Acts of 1994, being sections 324.35301 to~~  
3 ~~324.35326 of the Michigan Compiled Laws,~~ or part 637 ~~(sand dune~~  
4 ~~mining)~~ of Act No. ~~451 of the Public Acts of 1994, being~~  
5 ~~sections 324.63701 to 324.63714 of the Michigan Compiled Laws,~~  
6 or any other provision of law. The department may sell all  
7 reserved mineral, coal, oil, and gas rights to such lands upon  
8 terms and conditions as the department considers proper AND MAY  
9 SELL OIL AND GAS RIGHTS AS PROVIDED IN PART 610. The owner of  
10 such lands as shown by the records shall be given priority in  
11 case the department authorizes any sale of such lands, and,  
12 unless the landowner waives such rights, the department shall not  
13 sell such 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 (4) 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 noncon-  
19 ventional fuel credit contained in section 29 of the internal  
20 revenue code of 1986, 26 U.S.C. 29. However, in entering into  
21 these contracts, the department shall assure that revenues to the  
22 natural resources trust fund under these contracts are not less  
23 than the revenues the natural resources trust fund would have  
24 received if the contracts were not entered into. The sale of the  
25 economic share of royalty interests under this subsection may  
26 occur under contractual terms and conditions considered  
27 appropriate by the department and as approved by the state

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1 administrative board. Funds received from the sale of the  
2 economic share of royalty interests under this subsection shall  
3 be transmitted to the state treasurer for deposit in the state  
4 treasury as follows:

5 (a) Net proceeds allocable to the nonconventional fuel  
6 credit contained in section 29 of the internal revenue code of  
7 1986, 26 U.S.C. 29, under this subsection shall be credited to  
8 the environmental protection fund created in section 503a.

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

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

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

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

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

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

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

2 (b) A negotiated sale.

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

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

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

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

16 PART 610

17 UNIFIED SURFACE AND SUBSURFACE OIL OR GAS OWNERSHIP

18 SEC. 61001. AS USED IN THIS PART:

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

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

23 SEC. 61002. (1) WITHIN 4 YEARS AFTER THE EFFECTIVE DATE OF  
24 THIS SECTION, THE DEPARTMENT SHALL COMPLETE AN INVENTORY OF ALL  
25 LAND UNDER THE JURISDICTION OF THE DEPARTMENT AND SHALL CATEGO-  
26 RIZE THE 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 (2) THE DEPARTMENT MAY CONTRACT FOR THE COMPLETION OF THE  
8 INVENTORY UNDER SUBSECTION (1).

9 SEC. 61003. (1) THE DEPARTMENT SHALL IMPLEMENT PROCEDURES  
10 IN COMPLIANCE WITH THIS PART THAT ALLOW THE DEPARTMENT, AFTER  
11 CONSULTATION WITH THE NATURAL RESOURCE TRUST FUND BOARD AND  
12 APPROVAL OF THE NATURAL RESOURCE COMMISSION, TO DIVEST ITSELF OF  
13 SEVERED OIL AND GAS RIGHTS AND REUNITE THE OIL AND GAS RIGHTS  
14 WITH THE SURFACE RIGHTS. THE DEPARTMENT IS NOT REQUIRED TO  
15 DIVEST ITSELF OF OIL AND GAS RIGHTS TO LAND THAT IS IN PRODUCTION  
16 OR IS LEASED OR PERMITTED FOR PRODUCTION, OR TO LAND WHICH THE  
17 DEPARTMENT DETERMINES HAS UNUSUAL OR SENSITIVE ENVIRONMENTAL FEAT-  
18 URES THAT SHOULD BE RESERVED BY THE STATE AND MAINTAINED IN AN  
19 UNDEVELOPED STATE, OR TO LAND WHICH THE DEPARTMENT MAY CONSIDER  
20 OFFERING FOR EXCHANGE TO CONSOLIDATE INHOLDINGS WITHIN MANAGEMENT  
21 AREAS.

22 (2) WHEN THE DEPARTMENT TRANSFERS OIL AND GAS RIGHTS UNDER  
23 THIS PART, THE DEPARTMENT SHALL INCLUDE A DEED RESTRICTION THAT  
24 RESTRICTS THE OIL AND GAS RIGHTS FROM BEING SEVERED FROM THE SUR-  
25 FACE RIGHTS IN THE FUTURE. IF THE LANDOWNER SEVERS THE SUBSURFACE  
RIGHTS FROM THE SURFACE RIGHTS, THE SUBSURFACE RIGHTS REVERT TO THIS  
STATE.

26 SEC. 61004. (1) THE DEPARTMENT MAY DIVEST ITSELF OF  
27 SEVERED OIL AND GAS RIGHTS ON A COUNTY-BY-COUNTY BASIS. THE

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1 DEPARTMENT MAY [REDACTED] PRIORITIZE COUNTIES IN THE ORDER IN WHICH IT  
2 INTENDS TO OFFER DIVESTITURE SALES OR TRANSFERS PURSUANT TO THIS  
3 PART.

4 (2) PRIOR TO DIVESTING ITSELF OF SEVERED OIL AND GAS RIGHTS,  
5 THE DEPARTMENT SHALL DEVELOP A PLAN FOR ATTACHING A MONETARY  
6 VALUE TO THOSE RIGHTS BASED UPON CURRENT MARKET CONDITIONS. THIS  
7 PLAN MAY INCLUDE REQUIRING THE PURCHASING PARTY TO PAY ALL COSTS  
8 ASSOCIATED WITH COMPLETING THE TRANSACTION INCLUDING A PROPOR-  
9 TIONAL SHARE OF THE COSTS OF COMPLETING THE INVENTORY.

10 ADDITIONALLY, THE DEPARTMENT MAY TRADE SEVERED OIL AND GAS RIGHTS  
11 FOR OTHER LAND OR RIGHTS IN LAND IF SUCH A TRADE IS IN THE BEST  
12 INTEREST OF THE STATE. AT THE TIME THE DEPARTMENT TRANSFERS OIL  
13 AND GAS RIGHTS FOR LAND HELD BY A LOCAL UNIT OF GOVERNMENT, AND  
14 FOR PARCELS OF LAND SMALLER THAN 5 ACRES IN SIZE, THE DEPARTMENT  
15 SHALL TRANSFER THE OIL AND GAS RIGHTS ONLY FOR THE COST OF PRO-  
16 CESSING THE TRANSACTION.

17 (3) IN EACH COUNTY IN WHICH THE DEPARTMENT OFFERS TO SELL OR  
18 TRANSFER SEVERED OIL AND GAS RIGHTS TO THE SURFACE OWNER, [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED] THE DEPARTMENT SHALL PUBLISH A NOTICE IN A NEWSPAPER  
22 OF GENERAL CIRCULATION IN THE COUNTY WHERE THE OIL AND GAS RIGHTS  
23 ARE LOCATED AND PROVIDE NOTIFICATION TO [REDACTED] THE LOCAL TAXING  
24 AUTHORITY OF THIS STATE'S [REDACTED] OFFER TO SELL SEVERED OIL AND GAS  
25 RIGHTS TO SURFACE OWNERS [REDACTED]. A PRICE DESIGNATED BY THE DEPART-  
26 MENT FOR THE PURCHASE OF OIL AND GAS RIGHTS SHALL BE VALID FOR A  
27 MINIMUM OF 90 DAYS. A LANDOWNER WHO DESIRES TO ACCEPT THE



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1 DEPARTMENT'S OFFER TO SELL OR TRANSFER THE SEVERED OIL AND GAS  
2 RIGHTS SHALL PROVIDE THE DEPARTMENT WITH A COPY OF A RECORDED  
3 DEED SHOWING THE PERSON'S OWNERSHIP OF THE LAND. A PERSON WHO  
4 ATTEMPTS TO PURCHASE OIL AND GAS RIGHTS FROM THE DEPARTMENT WHO  
5 IS NOT THE SURFACE OWNER FORFEITS ANY MONEY GIVEN TO THE  
6 DEPARTMENT.

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

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14 (5) ALL MONEY RECEIVED BY THE DEPARTMENT FOR THE SALE OR  
15 TRANSFER OF OIL OR GAS RIGHTS PURSUANT TO THIS PART SHALL BE FOR-  
16 WARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE MICHIGAN NATU-  
17 RAL RESOURCES TRUST FUND ESTABLISHED IN PART 19.