

# HOUSE BILL No. 5210

January 8, 2014, Introduced by Reps. Schmidt, LaFontaine, Bumstead, Daley, Rendon, Pettalia, Brown, Potvin, McCready, Victory, Glardon, Foster, Johnson, Smiley, Kivela, Jenkins and Goike and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 503 (MCL 324.503), as amended by 2012 PA 294.

**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  
7 laws provided for that purpose with all authority granted by law;  
8 and foster and encourage the protection and propagation of game and  
9 fish.

10           (2) The department has the power and jurisdiction over the

1 management, control, and disposition of all land under the public  
2 domain, except for those lands under the public domain that are  
3 managed by other state agencies to carry out their assigned duties  
4 and responsibilities. On behalf of the people of this state, the  
5 department may accept gifts and grants of land and other property  
6 and may buy, sell, exchange, or condemn land and other property,  
7 for any of the purposes of this part. ~~Beginning September 30, 2012,~~  
8 ~~the~~ **THE** department shall not acquire surface rights to land unless  
9 the department has estimated the amount of annual payments in lieu  
10 of taxes on the land, posted the estimated payments on its website  
11 for at least 30 days, and notified the affected local units of the  
12 estimated payments at least 30 days before the acquisition.

13 ~~—— (3) Before May 1, 2015, the department shall not acquire~~  
14 ~~surface rights to land if the department owns, or as a result of~~  
15 ~~the acquisition will own, the surface rights to more than 4,626,000~~  
16 ~~acres of land.~~

17 ~~—— (4) Beginning May 1, 2015, the department shall not acquire~~  
18 ~~surface rights to land north of the Mason-Arenac line if the~~  
19 ~~department owns, or as a result of the acquisition will own, the~~  
20 ~~surface rights to more than 3,910,000 acres of land north of the~~  
21 ~~Mason-Arenac line. This subsection does not apply after the~~  
22 ~~enactment of legislation adopting the strategic plan.~~

23 ~~—— (5) For the purposes of subsections (3) and (4), the number of~~  
24 ~~acres of land in which the department owns surface rights does not~~  
25 ~~include any of the following:~~

26 ~~—— (a) Land in which the department has a conservation easement.~~

27 ~~—— (b) Land platted under the land division act, 1967 PA 288, MCL~~

1 ~~560.101 to 560.293, or a predecessor act before July 2, 2012 if~~  
2 ~~acquired by the department before July 2, 2012.~~

3 ~~—— (c) Any of the following if acquired on or after July 2, 2012:~~

4 ~~—— (i) Land with an area of not more than 80 acres, or a right of~~  
5 ~~way, for accessing other land owned by the department.~~

6 ~~—— (ii) A trail, subject to all of the following:~~

7 ~~—— (A) If the traveled portion of the trail is located within an~~  
8 ~~abandoned railroad right of way, the land excluded is limited to~~  
9 ~~the abandoned railroad right of way.~~

10 ~~—— (B) If the traveled portion of the trail is located in a~~  
11 ~~utility easement, the land excluded is limited to the utility~~  
12 ~~easement.~~

13 ~~—— (C) If sub subparagraphs (A) and (B) do not apply, the land~~  
14 ~~excluded is limited to the traveled portion of the trail and~~  
15 ~~contiguous land. The area of the contiguous land shall not exceed~~  
16 ~~the product of 100 feet multiplied by the length of the trail in~~  
17 ~~feet.~~

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

21 ~~—— (iv) Land acquired by the department by gift, including the~~  
22 ~~gift of funds specifically dedicated to land acquisition.~~

23 ~~—— (v) Land acquired by the department through litigation.~~

24 ~~—— (6) The department shall maintain a record of land as~~  
25 ~~described in subsection (5) (a) to (c). The record shall include the~~  
26 ~~location, acreage, date of acquisition, and use of the land. The~~  
27 ~~department shall post and maintain on its website all of the~~

1 ~~following information:~~

2 ~~—— (a) The number of acres of land, including land as described~~  
 3 ~~in subsection (5), in which the department owns surface rights~~  
 4 ~~north of the Mason-Arenac line, south of the Mason-Arenac line, in~~  
 5 ~~total for this state, and by program.~~

6 ~~—— (b) The number of acres of land, excluding land as described~~  
 7 ~~in subsection (5), in which the department owns surface rights~~  
 8 ~~north of the Mason-Arenac line, south of the Mason-Arenac line, in~~  
 9 ~~total for this state, and by program.~~

10 (3) ~~(7)~~ By October 1, 2014, the department shall develop a  
 11 written strategic plan to guide the acquisition and disposition of  
 12 state lands managed by the department, submit the plan to the  
 13 senate and house committees with primary responsibility for natural  
 14 resources and outdoor recreation and the corresponding  
 15 appropriation subcommittees, and post the plan on the department's  
 16 website. In developing the plan, the department shall solicit input  
 17 from the public and local units of government.

18 (4) ~~(8)~~ The strategic plan shall do all of the following:

19 (a) Divide this state into regions.

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

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

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

26 (ii) Maximizing outdoor recreation opportunities.

27 (iii) Forests.

1 (iv) Wildlife and fisheries.

2 (d) To assist in achieving the goals set forth in the  
3 strategic plan pursuant to subdivision (c), identify all of the  
4 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 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 subdivision (c), recognizing that public lands are  
15 subject to multiple uses and both motorized and nonmotorized uses.

16 ~~—— (9) The department shall not implement the strategic plan as~~  
17 ~~it applies to land north of the Mason-Arenac line. This subsection~~  
18 ~~does not apply after the enactment of legislation adopting the~~  
19 ~~strategic plan.~~

20 (5) **THE LEGISLATURE APPROVES THE STRATEGIC PLAN ENTITLED**  
21 **"DEPARTMENT OF NATURAL RESOURCES MANAGED PUBLIC LAND STRATEGY" THAT**  
22 **WAS ISSUED BY THE DEPARTMENT AND DATED JULY 1, 2013.**

23 (6) ~~(10)~~—The department shall annually report on the  
24 implementation of the **STRATEGIC** plan and submit and post the report  
25 in the manner provided in subsection ~~(7)~~-(3).

26 (7) ~~(11)~~—Beginning July 2, 2020 and every 6 years thereafter,  
27 the department shall update the strategic plan and submit and post

1 the updated plan in the manner provided in subsection ~~(7)~~. **(3)**. At  
 2 least 60 days before posting the updated plan, the department shall  
 3 prepare, submit, and post in the manner provided in subsection ~~(7)~~  
 4 **(3)** a report on progress toward the goals set forth pursuant to  
 5 subsection ~~(8)(c)~~ in portions of this state where, subject to  
 6 subsection ~~(9)~~, the plan is being implemented **(4)(C)** and any  
 7 proposed changes to the goals, including the rationale for the  
 8 changes. The submittal and posting shall include department contact  
 9 information for persons who wish to comment on the report.

10 **(8)** ~~(12)~~ **At BEFORE ACQUIRING OR DISPOSING OF LAND, THE**  
 11 **DEPARTMENT SHALL CONSULT WITH THE LOCAL UNITS OF GOVERNMENT WITHIN**  
 12 **WHOSE JURISDICTION THE LAND IS LOCATED. IN ADDITION, AT** least 30  
 13 days before acquiring or disposing of **THE** land, the department  
 14 shall submit to the senate and house committees with primary  
 15 responsibility for natural resources and outdoor recreation and the  
 16 corresponding appropriations subcommittees a statement identifying  
 17 the land and describing the effect of the proposed transaction on  
 18 achieving the goals set forth in the strategic plan pursuant to  
 19 subsection ~~(8)(c)~~. **(4)(C)**. The statement shall include department  
 20 contact information for persons who wish to comment on the  
 21 acquisition or disposition and be in a standard format. The  
 22 department shall also post the statement on its website for at  
 23 least 30 days before the acquisition or disposition. ~~This~~  
 24 ~~subsection does not apply before the department submits the~~  
 25 ~~strategic plan to legislative committees as required under~~  
 26 ~~subsection (7).~~

27 **(9)** ~~(13)~~ The department may accept funds, money, or grants for

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

9       (10) ~~(14)~~—The department may appoint persons to serve as  
10 volunteers for the purpose of facilitating the responsibilities of  
11 the department as provided in this part. Subject to the direction  
12 of the department, a volunteer may use equipment and machinery  
13 necessary for the volunteer service, including, but not limited to,  
14 equipment and machinery to improve wildlife habitat on state game  
15 areas.

16       (11) ~~(15)~~—The department may lease lands owned or controlled  
17 by the department or may grant concessions on lands owned or  
18 controlled by the department to any person for any purpose that the  
19 department determines to be necessary to implement this part. In  
20 granting a concession, the department shall provide that each  
21 concession is awarded at least every 7 years based on extension,  
22 renegotiation, or competitive bidding. However, if the department  
23 determines that a concession requires a capital investment in which  
24 reasonable financing or amortization necessitates a longer term,  
25 the department may grant a concession for up to a 15-year term. A  
26 concession granted under this subsection shall require, unless the  
27 department authorizes otherwise, that all buildings and equipment

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

21 (12) ~~(16)~~—When the department sells land, the deed by which  
22 the land is conveyed may reserve all mineral, coal, oil, and gas  
23 rights to this state only when the land is in production or is  
24 leased or permitted for production, or when the department  
25 determines that the land has unusual or sensitive environmental  
26 features or that it is in the best interest of this state to  
27 reserve those rights as determined by commission policy. However,



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

27 (13) ~~(17)~~—The department may enter into contracts for the sale

1 of the economic share of royalty interests it holds in hydrocarbons  
2 produced from devonian or antrim shale qualifying for the  
3 nonconventional source production credit determined under section  
4 45k of the internal revenue code of 1986, 26 USC 45k. However, in  
5 entering into these contracts, the department shall assure that  
6 revenues to the natural resources trust fund under these contracts  
7 are not less than the revenues the natural resources trust fund  
8 would have received if the contracts were not entered into. The  
9 sale of the economic share of royalty interests under this  
10 subsection may occur under contractual terms and conditions  
11 considered appropriate by the department and as approved by the  
12 state administrative board. Funds received from the sale of the  
13 economic share of royalty interests under this subsection shall be  
14 transmitted to the state treasurer for deposit in the state  
15 treasury as follows:

16 (a) Net proceeds allocable to the nonconventional source  
17 production credit determined under section 45k of the internal  
18 revenue code of 1986, 26 USC 45k, under this subsection shall be  
19 credited to the environmental protection fund created in section  
20 503a.

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

24 (14) ~~(18)~~—As used in this section:

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

1 (b) "Lease" means a conveyance by the department to a person  
2 of a portion of this state's interest in land under specific terms  
3 and for valuable consideration, thereby granting to the lessee the  
4 possession of that portion conveyed during the period stipulated.

5 ~~—— (c) "Mason-Arenac line" means the line formed by the north~~  
6 ~~boundaries of Mason, Lake, Osceola, Clare, Gladwin, and Arenac~~  
7 ~~counties.~~

8 (C) ~~(d)~~—"Natural resources trust fund" means the Michigan  
9 natural resources trust fund established in section 35 of article  
10 IX of the state constitution of 1963 and provided for in section  
11 1902.

12 (D) ~~(e)~~—"Net proceeds" means the total receipts received from  
13 the sale of royalty interests under subsection ~~(17)~~—(13) less costs  
14 related to the sale. Costs may include, but are not limited to,  
15 legal, financial advisory, geological or reserve studies, and  
16 accounting services.

17 (E) ~~(f)~~—"Strategic plan" or "plan" means the plan developed  
18 under subsection ~~(7)~~—(3).