

# SENATE BILL No. 603

May 21, 2009, Introduced by Senators VAN WOERKOM, KUIPERS, CROPSEY, JELINEK, JANSEN and PAPPAGEORGE and referred to the Committee on Agriculture and Bioeconomy.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 503, 701, 50102, 50110, 50112, 50136, 50301,  
50302, 50501, 50503, 50701, 51101, 51201, 51501, 51701, 51901,  
52501, 52503, 52504, 52505, 52506, 52701, 52901, 52902, 52903,  
52905, 52907, and 52908 (MCL 324.503, 324.701, 324.50102,  
324.50110, 324.50112, 324.50136, 324.50301, 324.50302, 324.50501,  
324.50503, 324.50701, 324.51101, 324.51201, 324.51501, 324.51701,  
324.51901, 324.52501, 324.52503, 324.52504, 324.52505, 324.52506,  
324.52701, 324.52901, 324.52902, 324.52903, 324.52905, 324.52907,  
and 324.52908), section 503 as amended by 2004 PA 587, section  
701 as added by 1995 PA 60, sections 50102, 50110, 50112, 50136,  
50301, 50302, 50503, 50701, 51701, 51901, 52701, 52901, 52902,  
52903, 52905, and 52907 as added by 1995 PA 57, section 50501 as  
amended by 2004 PA 124, section 51101 as amended by 2006 PA 383,

section 51201 as added by 2006 PA 381, section 51501 as amended by 2004 PA 529, section 52501 as amended and sections 52503, 52505, and 52506 as added by 2004 PA 125, section 52504 as amended by 2006 PA 500, and section 52908 as amended by 2001 PA 155.

**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 forestlands 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 over  
10 the management, control, and disposition of all land under the  
11 public domain, except for those lands under the public domain  
12 that are managed by other state agencies to carry out their  
13 assigned duties and responsibilities. On behalf of the people of  
14 the state, the department may accept gifts and grants of land and  
15 other property and may buy, sell, exchange, or condemn land and  
16 other property, for any of the purposes contemplated by this  
17 part. The department may accept funds, money, or grants for  
18 development of salmon and steelhead trout fishing in this state  
19 from the government of the United States, or any of its  
20 departments or agencies, pursuant to the anadromous fish  
21 conservation act, 16 USC 757a to 757f, and may use this money in

1 accordance with the terms and provisions of that act. However,  
2 the acceptance and use of federal funds does not commit state  
3 funds and does not place an obligation upon the legislature to  
4 continue the purposes for which the funds are made available.

5 (2) The department may lease lands owned or controlled by  
6 the department or may grant concessions on lands owned or  
7 controlled by the department to any person for any purpose that  
8 the department determines to be necessary to implement this part.  
9 In granting a concession, the department shall provide that each  
10 concession is awarded at least every 7 years based on extension,  
11 renegotiation, or competitive bidding. However, if the department  
12 determines that a concession requires a capital investment in  
13 which reasonable financing or amortization necessitates a longer  
14 term, the department may grant a concession for up to a 15-year  
15 term. A concession granted under this subsection shall require,  
16 unless the department authorizes otherwise, that all buildings  
17 and equipment shall be removed at the end of the concession's  
18 term. Any lease entered into under this subsection shall limit  
19 the purposes for which the leased land is to be used and shall  
20 authorize the department to terminate the lease upon a finding  
21 that the land is being used for purposes other than those  
22 permitted in the lease. Unless otherwise provided by law, money  
23 received from a lease or a concession of tax reverted land shall  
24 be credited to the fund providing financial support for the  
25 management of the leased land. Money received from a lease of all  
26 other land shall be credited to the fund from which the land was  
27 purchased. However, money received from program-related leases on

1 these lands shall be credited to the fund providing financial  
2 support for the management of the leased lands. For land managed  
3 by the forest management division of the department, that fund is  
4 either the forest development fund established pursuant to part  
5 505 or the forest recreation account of the Michigan conservation  
6 and recreation legacy fund provided for in section 2005. For land  
7 managed by the wildlife or fisheries division of the department,  
8 that fund is the game and fish protection account of the Michigan  
9 conservation and recreation legacy fund provided for in section  
10 2010.

11 (3) When the department sells land, the deed by which the  
12 land is conveyed may reserve all mineral, coal, oil, and gas  
13 rights to the state only when the land is in production or is  
14 leased or permitted for production, or when the department  
15 determines that the land has unusual or sensitive environmental  
16 features or that it is in the best interest of this state to  
17 reserve those rights as determined by commission policy. However,  
18 the department shall not reserve the rights to sand, gravel,  
19 clay, or other nonmetallic minerals. When the department sells  
20 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,  
24 the subsurface rights revert to this state. The deed may reserve  
25 to the state the right of ingress and egress over and across land  
26 along watercourses and streams. Whenever an exchange of land is  
27 made, either with the United States government, a corporation, or

1 an individual, for the purpose of consolidating the state forest  
2 reserves, the department may issue deeds without reserving to the  
3 state the mineral, coal, oil, and gas rights and the rights of  
4 ingress and egress. The department may sell the limestone, sand,  
5 gravel, or other nonmetallic minerals. However, the department  
6 shall not sell a mineral or nonmetallic mineral right if the sale  
7 would violate part 353, part 637, or any other provision of law.  
8 The department may sell all reserved mineral, coal, oil, and gas  
9 rights to such lands upon terms and conditions as the department  
10 considers proper and may sell oil and gas rights as provided in  
11 part 610. The owner of such lands as shown by the records shall  
12 be given priority in case the department authorizes any sale of  
13 such lands, and, unless the landowner waives such rights, the  
14 department shall not sell such rights to any other person. For  
15 the purpose of this section, mineral rights do not include rights  
16 to sand, gravel, clay, or other nonmetallic minerals.

17 (4) The department may enter into contracts for the sale of  
18 the economic share of royalty interests it holds in hydrocarbons  
19 produced from devonian or antrim shale qualifying for the  
20 nonconventional fuel credit contained in section ~~29-45K~~ of the  
21 internal revenue code of 1986. However, in entering into these  
22 contracts, the department shall assure that revenues to the  
23 natural resources trust fund under these contracts are not less  
24 than the revenues the natural resources trust fund would have  
25 received if the contracts were not entered into. The sale of the  
26 economic share of royalty interests under this subsection may  
27 occur under contractual terms and conditions considered

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

6 (a) Net proceeds allocable to the nonconventional fuel  
7 credit contained in section ~~29-45K~~ of the internal revenue code  
8 of 1986, under this subsection shall be credited to the  
9 environmental protection fund created in section 503a.

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

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

14 (a) "Natural resources trust fund" means the Michigan  
15 natural resources trust fund established in section 35 of article  
16 IX of the state constitution of 1963 and provided for in section  
17 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 (6) As used in this section:

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

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

6 Sec. 701. As used in this part: ~~,"fund"~~

7 (A) **"DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.**

8 (B) **"FUND"** means the forest and mineral resource development  
 9 fund created in section 703.

10 Sec. 50102. (1) **AS USED IN THIS PART:**

11 (A) "Agency of this state" means a board, bureau,  
 12 commission, department, or other division of the executive branch  
 13 of government of this state.

14 (B) ~~(2)~~"Board" means the board of directors of the forest  
 15 improvement district.

16 (C) ~~(3)~~"Bond" means a bond, note, or any other instrument  
 17 issued to evidence indebtedness.

18 (D) ~~(4)~~"Cost-share payment" means a payment made by a  
 19 forest improvement district pursuant to section 50145 to a member  
 20 who owns or occupies forest land.

21 (E) ~~(5)~~"County with high unemployment" means a county with  
 22 an annual unemployment rate, as reported by the Michigan  
 23 employment security commission, higher than the mean annual  
 24 unemployment rate of this state.

25 (F) **"DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.**

26 (G) ~~(6)~~"District" or "forest improvement district" means a  
 27 governmental subdivision of the state established under section

1 50123.

2 Sec. 50110. (1) In addition to the definitions contained in  
3 subpart 1 that are not modified by this subpart, the definitions  
4 contained in this section also apply to the western Upper  
5 Peninsula forest restoration project.

6 (2) "Departments" means the ~~departments~~ **DEPARTMENT** of  
7 agriculture, ~~commerce~~ **THE DEPARTMENT OF ENERGY, LABOR, AND**  
8 **ECONOMIC GROWTH**, and **THE DEPARTMENT OF** natural resources.

9 (3) "District" or "forest improvement district" means a  
10 governmental subdivision of the state established under this  
11 subpart containing at least 4 working forests.

12 (4) "Forest improvement project" or "project" means each of  
13 the following:

14 (a) Production, processing, handling, storage, marketing, or  
15 transportation of forest resources, including the operation of  
16 processing and manufacturing plants, power stations, warehouses,  
17 air and water pollution control equipment, and solid waste  
18 disposal facilities.

19 (b) Forest practice or follow-up work.

20 (c) Study, planning, or other work intended to improve  
21 forest lands or forest resources or to demonstrate means of  
22 improving forest lands or forest resources.

23 (d) Consulting with the department of agriculture on soil  
24 conditions for conservation and reforestation purposes.

25 (e) Maintaining a data bank accumulating timber resource and  
26 forest practice facts on a uniform basis for all working forests.

27 (f) Maintaining uniform accounting in accordance with

1 generally accepted accounting principles for profit enterprises  
2 as prescribed and established by a certified public accountant  
3 for all working forests.

4 (g) Preparing and filing annual reports based on the data  
5 bank information and accounting results with the department and  
6 with the department of ~~commerce~~**ENERGY, LABOR, AND ECONOMIC**  
7 **GROWTH** for analysis and evaluation.

8 (5) "Timber" means living trees suited for the manufacture  
9 of marketable forest products and living trees that will be so  
10 suited as a result of restructuring the forest. Timber does not  
11 include:

12 (a) Christmas trees and associated greens.

13 (b) Material harvested and not marketed.

14 (6) "Timber owner" means a person who holds an ownership  
15 interest in or cutting license for living trees on forest land if  
16 the interest or license is for a term of at least 15 years and if  
17 the interest or license does not contain detailed cutting  
18 specifications and restrictions such as for certain species only  
19 with minimum diameters **AT** breast height.

20 (7) "Waste wood" means wood from trees cut to improve forest  
21 productivity in growth and quality, but does not include timber.

22 (8) "Working forest" means an area of 10,000 to 20,000 acres  
23 within a radius of approximately 20 miles composed of various  
24 large blocks or tracts of forest land.

25 Sec. 50112. (1) The western Upper Peninsula forest  
26 improvement district shall be managed pursuant to this part by a  
27 board of directors composed of 1 member elected by the members of

1 each working forest in which more than 50% of the forest lands  
2 are **OWNED BY** private landowners; the Baraga district forester for  
3 1 working forest on lands in which more than 50% of the forest  
4 lands are under the jurisdiction of the department; 1 member  
5 appointed by the county board of commissioners for each working  
6 forest in which more than 50% of the lands are owned by  
7 governmental units or agencies other than the state and the  
8 United States government and are primarily situated within the  
9 county; 1 member appointed by the United States government for  
10 any working forest in which more than 50% of the forest lands are  
11 owned by the United States government or an agency of the United  
12 States government; 1 member appointed by the tribal council for  
13 any working forest in which more than 50% of the lands are under  
14 the jurisdiction of the Keweenaw bay tribal council and 1 member  
15 chosen by the other members of the board. All landowner members  
16 in a working forest in which more than 50% of the lands are  
17 privately owned shall be candidates for the board unless a member  
18 files a written declaration that the member desires not to serve.  
19 Elected directors shall be elected by written ballots voted  
20 privately, and the ballots shall be preserved for 1 year.

21 (2) The board of directors of the western Upper Peninsula  
22 forest improvement district shall do all of the following:

23 (a) Elect officers of the district, designate their duties,  
24 and delegate authority to them to perform those duties.

25 (b) Establish the forms and requirements for membership  
26 agreements applicable to the forest lands each member has in a  
27 working forest within the district.

1 (c) Effect a contract with a Michigan profit corporation as  
2 its agent if a majority of the board of directors of the profit  
3 corporation are members of the board of directors of the  
4 district.

5 (d) Furnish a budget to the department and the department of  
6 ~~commerce~~ **ENERGY, LABOR, AND ECONOMIC GROWTH** setting forth all  
7 projected costs and expenses expected to be incurred in the  
8 ensuing year and all estimated sources of income to be received.

9 (e) Exercise all powers and authority granted by this part.

10 (3) The profit corporation having a contract as agent for  
11 the district has the following powers, responsibilities, duties,  
12 and authority:

13 (a) To employ a capable professional forester to supervise  
14 each working forest, review the forest management plans of each  
15 member within that working forest, and effect compliance with the  
16 forest practices prescribed by the board of directors of the  
17 district; and to employ a director of forestry when there are 6  
18 or more working forests within the district.

19 (b) To employ a certified public accountant licensed to do  
20 business in this state who has experience in accounting for  
21 logging and sawmill operations to prescribe, supervise, and audit  
22 a uniform system of accountings, billings, and payments for each  
23 working forest and the district; and to establish and supervise  
24 for each working forest and the district a data bank on forest  
25 resources, practices, and production permitting analysis and  
26 evaluation of each working forest and the entire district on an  
27 annual basis.

1 (c) To provide an independent certified audit by a certified  
2 public accountant of all accounting data, showing profits and  
3 losses and financial condition annually by each working forest  
4 and the district.

5 (d) To furnish to the department ~~of agriculture~~ data on soil  
6 conditions and conservation and furnish to the department and the  
7 department of ~~commerce~~ **ENERGY, LABOR, AND ECONOMIC GROWTH**, at  
8 least annually, a detailed summary of the operations and results  
9 of the forest practices and the profit and loss and financial  
10 condition of each working forest and to consolidate it for the  
11 district.

12 (e) To act as an agent for the district in the exercise of  
13 the powers granted under section 50135.

14 (f) To assist in establishing, finding, or developing  
15 markets for all wood products harvested. A timber owner shall not  
16 be restricted in any way from disposing of or marketing wood  
17 products produced from that timber owner's land.

18 (g) To provide the district with a surety bond protecting  
19 the district against misuse, theft, or embezzlement of funds.

20 (h) To take such other action as delegated to it from time  
21 to time by the board of directors of the district.

22 (4) The western Upper Peninsula forest improvement district  
23 may act in, through, or by a profit corporation and as a  
24 political subdivision using the profit corporation to permit  
25 better evaluation of the commercial feasibility of the entire  
26 pilot project.

27 (5) Upon approval of the member's forest management plan,

1 the member shall proceed to conduct those approved forest  
2 practices designated to enhance improved tree growth, improve  
3 quality of the trees allowed to remain in the residual stand,  
4 and, in general, manage the timberland for the purpose of  
5 developing maximum production of high quality commercial timber.  
6 The practices shall include, but not be limited to, all of the  
7 following:

8 (a) Timber stand improvement thinnings of defective, poorly  
9 formed, diseased, or otherwise undesirable living trees in the  
10 forest.

11 (b) Waste wood harvest of overmature, defective cull trees  
12 and trees too small or otherwise unsuited for manufacture of  
13 forest products but suited for production of chips for fuel or  
14 other purposes.

15 (c) Planting open areas in existing forests where natural  
16 tree reproduction has not been adequate or where there is benefit  
17 in changing or converting the forest site from a less desirable  
18 and less productive tree species to a more valuable and more  
19 productive tree species as economically feasible.

20 (d) Planting trees in open fields destined not to be used  
21 for future growth of agriculture crops as economically feasible.

22 (e) Salvage of broken, storm-damaged trees or other trees  
23 which by reason of their present condition will deteriorate in  
24 value in future years rather than improve in growth and quality.

25 (6) To the extent funds are available to the western Upper  
26 Peninsula forest improvement district, the district may make an  
27 incentive payment to or for the members of the district who

1 submit forest management plans approved by the district and adopt  
2 and comply with forest practices prescribed in this subpart and  
3 as prescribed for the working forests in the district. One-fourth  
4 of each annual incentive payment shall be used by the district to  
5 discharge its administrative and operating costs, and 3/4 of the  
6 payment shall be returned to the member. The incentive payments  
7 paid to the members are subject to the following terms and  
8 conditions:

9 (a) Production of at least 1 ton per acre per year of waste  
10 wood in minimum aggregate units of 10 tons, or production of  
11 pulpwood, bolts, or saw or veneer logs from or reforestation of  
12 the forest lands of the landowner member in accordance with the  
13 members' approved forest practice plan. However, if there is not  
14 a market available for the pulpwood, bolts, or saw or veneer  
15 logs, the requirement in this subdivision may be waived.

16 (b) If land is publicly owned and exempt from ad valorem  
17 property taxes, the incentive payments shall be reduced by \$1.50  
18 per acre. A member's land may remain or be placed under part 511.  
19 Such land shall continue to be taxed pursuant to part 511, and  
20 the incentive payments for the land shall be reduced by \$1.20 per  
21 acre.

22 (c) If in any year a landowner member does not comply with  
23 the requirements of this subsection, the annual incentive  
24 payments for that year are to be repaid by the member to the  
25 district, with interest, at the average annual rate being earned  
26 on money deposited in the investment account of the general fund  
27 of this state. If a member substantially fails to comply with the

1 member's approved forest practice plan, all payments received by  
2 the member shall be ~~repayable~~ **REPAID** to the district in full with  
3 interest within 30 days after the mailing of written notice of  
4 default to the member. In the alternative, the district or its  
5 agents, representatives, or assigns may enter upon the lands of  
6 the member and cut and remove waste wood, pulp, bolts, or timber  
7 in accordance with the prescribed forestry practices and apply  
8 the proceeds to the repayment of the annual incentive payments  
9 due from the member, together with interest. If a member  
10 receiving annual incentive payments fails to ~~effect compliance~~  
11 **COMPLY** with the member's management plan and the prescribed  
12 forestry practices and does not repay the incentive payments  
13 received, with interest, and the district does not cut or remove  
14 timber or pulpwood from the member's land receiving net proceeds  
15 sufficient to offset the repayment due, then the district may  
16 place a lien on the member's land. To effect a lien on the  
17 member's land, the supervisory forester of the working forest in  
18 which the member landowner's lands are located shall certify to  
19 the board the noncompliance by the member and the basis of the  
20 noncompliance on a form prescribed by the board and shall serve a  
21 copy of the form on the member. The member shall be entitled to a  
22 hearing by the board after receipt of notice, to be held within  
23 30 days after the giving of notice to the member of the  
24 noncompliance. If the board determines that there has been  
25 noncompliance by the landowner member, the board shall set forth  
26 its determination in writing and record that determination in the  
27 office of the register of deeds **FOR THE COUNTY** in which the lands

1 are located. The recorded determination of the default or  
2 noncompliance by the member constitutes a lien in favor of the  
3 district on the land of the defaulting or noncomplying member.  
4 Copies of the written determination shall be served upon the  
5 member and the appropriate local taxing authorities. A member  
6 determined to be in noncompliance ~~shall~~ **IS** not ~~be~~ entitled to  
7 further incentive payments.

8 (7) The board of the western Upper Peninsula forest  
9 improvement district also shall effect an investigation of and  
10 determine the feasibility of acquiring an industrial site for  
11 processing operations by the district and to erect and operate a  
12 processing or manufacturing plant, and to acquire sites for power  
13 plants generating electricity using waste wood as their primary  
14 fuel, and to acquire, erect, and operate the same, issuing bonds  
15 for these purposes pursuant only to the procedure, terms, and  
16 conditions of subpart 7, as the board considers proper and  
17 without other or further approval.

18 Sec. 50136. Each agency of this state that has jurisdiction  
19 over, or is charged with the administration of, state owned land  
20 within the boundaries of a district shall cooperate to the  
21 fullest extent with the board of the district in implementing  
22 this part. ~~The departments of agriculture and commerce~~ **DEPARTMENT**  
23 **AND THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH** and  
24 other industrial and trade development agencies of this state  
25 shall also cooperate to the fullest extent with the board of a  
26 district in implementing this part.

27 Sec. 50301. The department **OF AGRICULTURE** shall do all of

1 the following:

2 (a) Advise the legislature and the governor on forest  
3 management and development and other matters relevant to the  
4 development of the forest products industry in this state.

5 (b) Develop a forestry development plan to improve the  
6 state's business climate for forestry, assure a stable timber  
7 supply, and coordinate public and private forestry activities.

8 (c) Identify the needs of the forest products industry.

9 (d) Promote and encourage the development of the forest  
10 products industry in this state.

11 (e) Promote and encourage the expansion of existing forest  
12 products companies in this state and attract new forest products  
13 companies to locate in this state.

14 (f) Perform other functions the department considers  
15 necessary for the development of the forest products industry in  
16 this state.

17 (g) Promote and encourage the use of this state's forest  
18 products by other states and for export.

19 Sec. 50302. The department **OF AGRICULTURE** shall annually  
20 report to the governor and the legislature on its activities to  
21 promote the development of the forest products industry in this  
22 state.

23 Sec. 50501. **(1)** The purpose of this part and of the  
24 authority created by this part is to preserve existing jobs,  
25 create new jobs, and alleviate and prevent unemployment through  
26 the retention, promotion, and development of forestry and forest  
27 industries and to protect the health and vigor of forest

- 1 resources by doing all of the following:
- 2 (a) Funding practices prescribed and approved by the  
3 department that intensify management of certain highly productive  
4 portions of this state's forest system.
- 5 (b) Implementing a system of forest management that is  
6 investment-oriented, economically efficient, and environmentally  
7 sound.
- 8 (c) Implementing a system of forest management that is  
9 consistent with principles of sustainable forestry and with part  
10 525.
- 11 (d) Promoting a stable and continuing supply of timber for  
12 future economic expansion.
- 13 (e) Providing dependable funding of scheduled forest  
14 management operations.
- 15 (f) Promoting effective investment of revenues from timber  
16 sales for high future returns.
- 17 (g) Facilitating timely performance of forest management  
18 operations.
- 19 (h) Earning additional revenues for forest management from  
20 timber sales.
- 21 (i) Improving existing timber stands and establishing new  
22 stands of trees.
- 23 (j) Providing for reforestation, forest protection, and  
24 timber stand improvement.
- 25 (k) Providing an additional funding source for the purposes  
26 described in this section from indebtedness secured with revenues  
27 generated from future sale of timber harvested from state tax

1 reverted lands, from lands in the state forest system from which  
2 revenues derived from the sale of timber were previously  
3 deposited in the forest management fund created in former 1945 PA  
4 268, and from other lands as provided by law.

5 (2) AS USED IN THIS PART:

6 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

7 (B) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

8 Sec. 50503. The Michigan forest finance authority is created  
9 as a body corporate within the department ~~of natural resources~~  
10 and shall be administered under the supervision of the department  
11 but shall exercise its prescribed statutory power, duties, and  
12 functions independently of the department. The budgeting,  
13 procurement, and related functions of the authority shall be  
14 performed under the direction and supervision of the department.  
15 Funds of the authority shall be handled in the same manner and  
16 subject to the same provisions of law applicable to state funds  
17 or in a manner specified in a resolution of the authority  
18 authorizing the issuance of bonds and notes.

19 Sec. 50701. (1) In a county in which more than 50% of the  
20 land is owned by the state and in which the county annual average  
21 unemployment rate exceeds the state annual average unemployment  
22 rate, as determined by the Michigan employment security  
23 commission, due to reductions in staff at a state facility  
24 located in the county, the department is authorized to convey a  
25 leasehold interest, without monetary consideration, to the county  
26 in not more than 1% of the state owned property located in the  
27 county and under the control of the department. The county

1 forestry committee created pursuant to section 50703, in  
2 cooperation with the department, shall designate the specific  
3 sections of property to be leased. The property designated  
4 pursuant to this subsection shall not include forest lands  
5 located in state parks or lands useful for forest preserves, game  
6 areas, and recreational purposes, including wilderness areas,  
7 quiet areas, or other special use areas. The property designated  
8 pursuant to this subsection shall consist of forest lands  
9 previously designated by the department for timber production and  
10 suitable for use in the forest management demonstration program  
11 established pursuant to this part.

12 (2) The term of a leasehold interest authorized by this part  
13 shall not exceed 15 years, but the leasehold interest shall be  
14 renewable for an additional 15 years if the primary objectives of  
15 the forest management demonstration program established pursuant  
16 to this part are met, as determined by the department.

17 (3) During the term of the leasehold interest authorized by  
18 this part, the leased property shall be open to the public for  
19 hunting, fishing, and other recreational uses as considered  
20 appropriate by the department.

21 (4) **AS USED IN THIS PART, "DEPARTMENT" MEANS THE DEPARTMENT**  
22 **OF AGRICULTURE.**

23 Sec. 51101. As used in this part:

24 (a) "Ad valorem general property tax" means taxes levied  
25 under the general property tax act, 1893 PA 206, MCL 211.1 to  
26 ~~211.157~~ **211.155.**

27 (b) "Commercial forest" or "commercial forestland" means

1 forestland that is determined to be a commercial forest under  
2 section 51103.

3 (c) "Declassify" or "declassification" means the removal of  
4 the commercial forest designation pursuant to section 51116.

5 **(D) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.**

6 **(E)** ~~(d)~~—"Forestland" means a tract of land that may include  
7 nonproductive land that is intermixed with productive land that  
8 is an integral part of a managed forest and that meets all the  
9 following:

10 (i) Does not have material natural resources other than those  
11 resources suitable for forest growth or the potential for forest  
12 growth.

13 (ii) Is not used for agricultural, mineral extraction except  
14 as provided in section 51113, grazing, industrial, developed  
15 recreational, residential, resort, commercial, or developmental  
16 purposes.

17 (iii) The owner agrees to develop, maintain, and actively  
18 manage the land as a commercial forest through planting, natural  
19 reproduction, or other silvicultural practices.

20 **(F)** ~~(e)~~—"Forest management plan" means a written plan  
21 prepared and signed by a registered forester or a natural  
22 resources professional that prescribes measures to optimize  
23 production, utilization, and regeneration of forest resources.  
24 The forest management plan shall include schedules and timetables  
25 for the various silvicultural practices used on commercial  
26 forestlands, including, but not limited to, timber harvesting and  
27 regeneration.

1           (G) ~~(f)~~—"Fund" means the commercial forest fund created  
2 under section 51112.

3           (H) ~~(g)~~—"Natural resources professional" means a person who  
4 is acknowledged by the department as having the education,  
5 knowledge, experience, and skills to identify, schedule, and  
6 implement appropriate forest management practices needed to  
7 achieve the purposes of this part on land subject to or to be  
8 subject to this part.

9           (I) ~~(h)~~—"Owner" means a person who holds title to the  
10 surface estate of forestland subject to this part. However, if  
11 land is purchased on a land contract, the owner includes the  
12 person who holds the land contract vendee's interest and does not  
13 include the person who holds the land contract vendor's interest.

14           (J) ~~(i)~~—"Personal use" means use for any noncommercial  
15 purpose.

16           (K) ~~(j)~~—"Registered forester" means a person registered  
17 under article 21 of the occupational code, 1980 PA 299, MCL  
18 339.2101 to 339.2108.

19           (L) ~~(k)~~—"Silvicultural practices" means the management and  
20 manipulation of forest vegetation for the protection, growth, and  
21 enhancement of forest products.

22           Sec. 51201. (1) Notwithstanding section 51105, an owner of  
23 commercial forestland that is subject to a sustainable forest  
24 conservation easement is subject to an annual specific tax equal  
25 to the annual specific tax levied under section 51105 less 15  
26 cents per acre. The specific tax described in this section shall  
27 be administered, collected, and distributed in the same manner as

1 the specific tax levied in section 51105.

2 (2) An application for sustainable forest conservation  
3 easement tax incentives described in this part shall be submitted  
4 on a form prescribed by the department. The application shall be  
5 postmarked or delivered to the department not later than April 1  
6 to be eligible for approval for the following tax year. In  
7 addition to any information that the department may reasonably  
8 require by rule, the applicant shall provide all of the following  
9 to the department:

10 (a) A nonrefundable application fee in the amount of \$2.00  
11 per acre or fraction of an acre, but not less than \$200.00 and  
12 not more than \$1,000.00. The department shall remit the  
13 application fee to the state treasurer for deposit into the  
14 commercial forest fund under section 51112.

15 (b) A copy of the conservation easement covering the  
16 forestland.

17 (3) The owner of commercial forestlands subject to a  
18 sustainable forest conservation easement is entitled to cut or  
19 remove forest products on his or her commercial forestlands if  
20 the owner complies with part 511 and the requirements of the  
21 sustainable forest conservation easement.

22 (4) If commercial forestland subject to a sustainable forest  
23 conservation easement is used in violation of this part or the  
24 sustainable forest conservation easement, the owner in addition  
25 to any other penalties provided by law shall pay a penalty, per  
26 acre, for each year in which the violation occurs equal to the  
27 difference between the specific tax paid under this part and the

1 specific tax that would otherwise be paid under part 511. The  
2 specific tax collected under this part shall be paid to the  
3 ~~township~~ treasurer **OF THE TOWNSHIP** in which the commercial  
4 forestland is located. The penalty shall be distributed by the  
5 township treasurer in the same manner as the specific tax is  
6 distributed.

7 (5) As used in this part:

8 (a) "Commercial forestland" means commercial forestland that  
9 is enrolled under part 511.

10 (b) "Department" means the department of ~~natural resources~~  
11 **AGRICULTURE**.

12 (c) "Forestland" means that term as defined in part 511.

13 (d) "Sustainable forest conservation easement" means a  
14 conservation easement described in section 2140 on commercial  
15 forestland that is approved by the department and meets all of  
16 the following:

17 (i) Is an easement granted in perpetuity to this state, a  
18 political subdivision of this state, or a charitable organization  
19 described in section 501(c)(3) of the internal revenue code, 26  
20 USC ~~501~~ **501(C)(3)**, that also meets the requirements of section  
21 170(h)(3) of the internal revenue code, 26 USC ~~170~~ **170(H)(3)**.

22 (ii) Covers commercial forestland of 40 or more acres in  
23 size.

24 (iii) Provides that the forestland subject to the conservation  
25 easement or the manager of the forestland subject to the  
26 conservation easement is and continues to be certified under a  
27 sustainable forestry certification program that uses independent

1 third party auditors and that is recognized by the department.

2 (iv) Provides that the forestland subject to the conservation  
3 easement provides for the nonmotorized recreational use of the  
4 forestland by members of the public.

5 Sec. 51501. As used in this part:

6 (a) "Certified prescribed burn manager" means an individual  
7 who has successfully completed the certification program of the  
8 department under section 51513 and possesses a valid  
9 certification number.

10 (b) "Department" means the department of ~~natural resources~~  
11 **AGRICULTURE**.

12 (c) "Domestic purposes" refers to burning that is any of the  
13 following:

14 (i) A fire within the curtilage of a dwelling where the  
15 material being burned has been properly placed in a debris burner  
16 constructed of metal or masonry, with metal covering device with  
17 openings no larger than 3/4 of an inch.

18 (ii) A campfire.

19 (iii) Any fire within a building.

20 (d) "Extinguished", in reference to prescribed burning,  
21 means that there is no longer any spreading flame.

22 (e) "Forest land", subject to subdivision (f), means any of  
23 the following:

24 (i) Timber land, potential timber-producing land, or cutover  
25 or burned timber land.

26 (ii) Wetland.

27 (iii) Prairie or other land dominated by grasses or forbes.

1 (f) "Forest land" does not include land devoted to  
2 agriculture.

3 (g) "Flammable material" means any substance that will burn,  
4 including, but not limited to, refuse, debris, waste forest  
5 material, brush, stumps, logs, rubbish, fallen timber, grass,  
6 stubble, leaves, fallow land, slash, crops, or crop residue.

7 (h) "Prescribed burn" or "prescribed burning" means the  
8 burning, in compliance with a prescription and to meet planned  
9 fire or land management objectives, of a continuous cover of  
10 fuels.

11 (i) "Prescription" means a written plan establishing the  
12 criteria necessary for starting, controlling, and extinguishing a  
13 burn.

14 (j) "Wetland" means land characterized by the presence of  
15 water at a frequency and duration sufficient to support, and that  
16 under normal circumstances does support, wetland vegetation or  
17 aquatic life, and is commonly referred to as a bog, swamp, or  
18 marsh.

19 Sec. 51701. The state or a department, bureau, board,  
20 commission, or other agency of the state or a political  
21 subdivision of the state shall not enact, adopt, promulgate,  
22 enforce, or practice any law, rule, policy, or concept that  
23 creates or tends to create a condition that promotes, fosters, or  
24 leads or may tend to promote, foster, or lead to the beginning or  
25 spreading of a forest fire that could jeopardize the public trust  
26 in the forests of the state or any private land contiguous to the  
27 forests of the state, except as may be required for the

1 protection of the public health, safety, and welfare, or as  
2 prescribed for forest management **PROGRAMS UNDER THE AUTHORITY OF**  
3 **THE DEPARTMENT OF AGRICULTURE** or wildlife management programs  
4 under the authority of the department **OF NATURAL RESOURCES.**

5       Sec. 51901. (1) Any person who cuts any forest growth within  
6 any public road or highway, or on land bordering on any public  
7 road or highway in this state, shall dispose of all cutting,  
8 slash, and debris resulting from the cutting, and dead stubs and  
9 windfalls from the area cut over so that inflammable material  
10 does not constitute a fire hazard within the limits of the road  
11 or highway or within 50 feet of the edge of the cleared portion  
12 of the limits of the road or highway. The method of disposal, the  
13 disposal specifications, and the elimination of fire hazards  
14 shall be approved by the department.

15       (2) **AS USED IN THIS PART, "DEPARTMENT" MEANS THE DEPARTMENT**  
16 **OF AGRICULTURE.**

17       Sec. 52501. As used in this part:

18       (a) "Breast height" means 4.5 feet from highest ground at  
19 the base of the tree.

20       (b) "Certification" means a process where an independent  
21 third party organization assesses and evaluates forest management  
22 practices according to the standards of a certification program  
23 resulting in an issuance of a certificate of compliance or  
24 conformity.

25       (c) "Certification program" means a program that develops  
26 specific standards that measure whether forest management  
27 practices are consistent with principles of sustainable forestry.

1 (d) "Conservation" means the wise use of natural resources.

2 (E) **"DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.**

3 (F) ~~(e)~~"Diameter class specifications" means a  
4 classification of trees based on the diameter at breast height.

5 (G) **"DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.**

6 (H) ~~(f)~~"Plan" means the forestry development, conservation,  
7 and recreation management plan for state forests as provided for  
8 in section 52503.

9 (I) ~~(g)~~"Reforestation" means adequate stocking of  
10 forestland is assured by natural seeding, sprouting, suckering,  
11 or by planting seeds or seedlings.

12 (J) ~~(h)~~"Residual basal area" means the sum of the cross-  
13 sectional area of trees 4 inches or greater in diameter measured  
14 at breast height left standing within a stand after a harvest.

15 (K) ~~(i)~~"State forest" means state land owned or controlled  
16 by the department that is designated as state forest by the  
17 director.

18 (L) ~~(j)~~"Sustainable forestry" means forestry practices that  
19 are designed to meet present and future needs by employing a land  
20 stewardship ethic that integrates the reforestation, managing,  
21 growing, nurturing, and harvesting of trees for useful products  
22 with the conservation of soil, air and water quality, wildlife  
23 and fish habitat, and visual qualities.

24 Sec. 52503. (1) The department shall adopt a forestry  
25 development, conservation, and recreation management plan for  
26 state owned lands. ~~owned or controlled by the department.~~ Parks  
27 and recreation areas, state game areas, and other wildlife areas

1 on these lands shall be managed according to their primary  
2 purpose. The department may update the plan as the department  
3 considers necessary or appropriate. The plan and any plan updates  
4 shall be consistent with section 52502 and shall be designed to  
5 ~~assure~~**ENSURE** a stable, long-term, sustainable timber supply from  
6 the state forest as a whole.

7 (2) The plan and any plan updates shall include all of the  
8 following:

9 (a) An identification of the interests of local communities,  
10 outdoor recreation interests, the tourism industry, and the  
11 forest products industry.

12 (b) An identification of the annual capability of the state  
13 forest and management goals based on that level of productivity.

14 (c) Methods to promote and encourage the use of the state  
15 forest for outdoor recreation, tourism, and the forest products  
16 industry.

17 (d) A landscape management plan for the state forest  
18 incorporating biodiversity conservation goals, indicators, and  
19 measures.

20 (e) Standards for sustainable forestry consistent with  
21 section 52502.

22 (f) An identification of environmentally sensitive areas.

23 (g) An identification of the need for forest treatments to  
24 maintain and sustain healthy, vigorous forest vegetation and  
25 quality habitat for wildlife and environmentally sensitive  
26 species.

27 Sec. 52504. (1) The department shall harvest timber from the

1 state forest and other state owned lands ~~owned or controlled by~~  
2 ~~the department~~ in compliance with the plan and any plan updates.

3 (2) Unless otherwise dedicated by law, proceeds from the  
4 sale of timber from the state forest and other state owned lands  
5 ~~owned or controlled by the department~~ shall be forwarded to the  
6 state treasurer for deposit into the forest development fund  
7 established pursuant to section 50507.

8 (3) Not later than December 31 of each year, the department  
9 shall submit a report, to the standing committees of the senate  
10 and house of representatives with jurisdiction over forestry  
11 issues, that includes all of the following:

12 (a) The total number of acres in the state forest that have  
13 been identified by the department as having site conditions that  
14 restrain timber sales.

15 (b) The site conditions applicable to acreage identified  
16 under subdivision (a).

17 (c) The total number of acres identified under subdivision  
18 (a) in the previous year's report that are not identified under  
19 subdivision (a) in the current report and have been made  
20 available for timber sale.

21 (d) The locations where the acres identified under  
22 subdivision (a) and acres as identified under subdivision (c) are  
23 located.

24 (e) A statement of what the department intends to do to  
25 remove the particular site conditions identified under  
26 subdivision (b).

27 Sec. 52505. (1) The department shall seek and maintain

1 third-party certification that the management of the state forest  
2 and other state owned lands ~~owned or controlled by the department~~  
3 satisfies the sustainable forestry standards of at least 1  
4 credible nonprofit, nongovernmental certification program and  
5 this part.

6 (2) ~~Beginning January 1, 2006, the~~ **THE** department shall  
7 ensure that the state forest is certified as provided for in  
8 subsection (1).

9 ~~Beginning the effective date of the amendatory act that~~  
10 ~~added this section, the department shall commence a review and~~  
11 ~~study to determine the appropriateness of certifying parks and~~  
12 ~~recreation areas, state game areas, and other wildlife areas on~~  
13 ~~state owned lands owned or controlled by the department. Not~~  
14 ~~later than 1 year after the effective date of the amendatory act~~  
15 ~~that added this section, the department shall report and~~  
16 ~~recommend to the legislature the appropriateness and feasibility~~  
17 ~~of certifying those lands.~~

18 Sec. 52506. By January 1 of each year, the department shall  
19 prepare and submit to the ~~commission of natural resources, the~~  
20 standing committees of the senate and the house of  
21 representatives with primary jurisdiction over forestry issues ,  
22 and the senate and house appropriations committees a report that  
23 details the following from the previous state fiscal year:

24 (a) The number of harvestable acres in the state forest as  
25 determined by the certification program under section 52506.

26 (b) The number of acres of the state forest that were  
27 harvested and the number of cords of wood that were harvested

1 from the state forest.

2 (c) The number of acres of state owned lands ~~owned or~~  
3 ~~controlled by the department~~ other than state forestlands that  
4 were harvested and the number of cords of wood that were  
5 harvested from those lands.

6 (d) Efforts by the department to promote recreational  
7 opportunities in the state forest.

8 (e) Information on the public's utilization of the  
9 recreational opportunities offered by the state forest.

10 (f) Efforts by the department to promote wildlife habitat in  
11 the state forest.

12 (g) The status of the plan and whether the department  
13 recommends any changes in the plan.

14 (h) Status of certification efforts required in section  
15 52505 and ~~, beginning in 2006,~~ a definitive statement of whether  
16 the department is maintaining certification of the entire state  
17 forest.

18 (i) A description of any activities that have been  
19 undertaken on forest pilot project areas described in section  
20 52511.

21 Sec. 52701. As used in this part:

22 (A) **"DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.**

23 (B) ~~(a)~~-"Forestry commission" means a forestry commission  
24 appointed by a municipality pursuant to this part.

25 (C) ~~(b)~~-"Legislative body" means any board of supervisors,  
26 township board, city or village legislative body, or school  
27 district board.

1           (D) ~~(e)~~—"Municipality" means a county, township, city,  
2 village, or school district.

3           Sec. 52901. (1) A person shall not cut, remove, or  
4 transport, without having in possession a bill of sale from the  
5 owner or other evidence of title on a form prescribed by and  
6 available from the ~~department or the~~ department of agriculture or  
7 the federal agency that has jurisdiction, any of the following:

- 8           (a) Christmas trees.  
9           (b) Evergreen boughs.  
10          (c) Any other trees, shrubs, or vines.  
11          (d) Trailing arbutus..... Epigaea.  
12          (e) Bird's foot violet..... Viola pedata.  
13          (f) Climbing bittersweet..... Celastrus scandens.  
14          (g) Club mosses..... Lycopodiaceae.  
15          (h) Flowering dogwood..... Cornus florida.  
16          (i) All Michigan holly..... Ilex sp. and nemopanthus  
17          sp.  
18          (j) North American lotus..... Nelumbo sp.  
19          (k) Pipsissewa..... Chimaphila umbellata.  
20          (l) All native orchids..... Orchidaceae.  
21          (m) Trilliums..... Trillium sp.  
22          (n) Gentians..... Eustoma sp.  
23          (o) Parts of any plant listed in this subsection.

24           (2) As used in this part, "plant" means a tree, bough,  
25 shrub, vine, or other native plant, or a part of a tree, bough,  
26 shrub, vine, or other native plant, listed in subsection (1).

27           (3) A person shall produce a bill of sale for a plant listed  
in subsection (1) or other evidence of title upon demand of a law

1 enforcement officer.

2       Sec. 52902. A person shall not transport within this state  
3 any plant in either of the following circumstances:

4       (a) If the plant has been removed from property owned by the  
5 person, unless he or she has in possession a current tax receipt  
6 or deed with respect to the property or a copy of the receipt or  
7 deed.

8       (b) If the plant has been removed from property not owned by  
9 the person, unless either of the following has been met:

10       (i) Each plant bears a tag placed on the plant by and  
11 identifying the person and his or her address and stating from  
12 whom the plant was acquired.

13       (ii) The person has in his or her possession a bill of sale  
14 or other evidence of title acquisition in a form prescribed by  
15 and available from ~~the department or the~~ department of  
16 agriculture or the federal agency that has jurisdiction. The  
17 person shall display the bill of sale or other evidence of title  
18 upon demand of a law enforcement officer.

19       Sec. 52903. A person shall not sell or offer for sale any  
20 plant without having in his or her possession the evidence of  
21 title prescribed by section 52902 or without furnishing the  
22 purchaser with a bill of sale or other evidence of title  
23 acquisition in a form prescribed by ~~the department or the~~  
24 department of agriculture or the federal agency that has  
25 jurisdiction. Vendors shall maintain and keep records of their  
26 transactions for the period of time that ~~the department or the~~  
27 department of agriculture or the federal agency that has

1 jurisdiction prescribes by rule or regulation.

2       Sec. 52905. A law enforcement officer having probable cause  
3 to believe that this part is being violated, including authorized  
4 employees of the department of agriculture, ~~or the department,~~  
5 may make inspections to determine whether this part has been  
6 violated, including the right to stop any vehicle that is  
7 transporting a plant at any time, to inspect and make copies of  
8 bills of sale or other evidence of title prescribed by ~~the~~  
9 ~~department or the~~ department of agriculture or the federal agency  
10 that has jurisdiction, to arrest persons found to have any plants  
11 in possession in violation of this part and to impound any plants  
12 or equipment used to remove or transport the plants. Pursuant to  
13 court order, any plants or equipment impounded pursuant to this  
14 section shall be permanently seized and disposed of as required  
15 under sections 1603 and 1604. Failure to exhibit a bill of sale  
16 or other evidence of title prescribed by ~~the department or the~~  
17 department of agriculture or the federal agency that has  
18 jurisdiction is prima facie evidence that a bill of sale or other  
19 evidence of title does not exist.

20       Sec. 52907. The director of **THE DEPARTMENT OF** agriculture,  
21 ~~and the department,~~ in cooperation with law enforcement agencies,  
22 shall enforce this part. The director of **THE DEPARTMENT OF**  
23 agriculture, after consultation with the department, shall  
24 promulgate rules as he or she considers necessary for the  
25 enforcement of this part.

26       Sec. 52908. (1) A person who violates this part is guilty of  
27 a crime as follows:

1 (a) If the damages are less than \$200.00, the person is  
2 guilty of a misdemeanor punishable by imprisonment for not more  
3 than 93 days or a fine of not more than \$500.00, or 3 times the  
4 aggregate value of the property involved, whichever is greater,  
5 or both imprisonment and a fine.

6 (b) If any of the following apply, the person is guilty of a  
7 misdemeanor punishable by imprisonment for not more than 1 year  
8 or a fine of not more than \$2,000.00 or 3 times the value of the  
9 property involved, whichever is greater, or both imprisonment and  
10 a fine:

11 (i) The value of the property involved is \$200.00 or more but  
12 less than \$1,000.00.

13 (ii) The person violates subdivision (a) and has 1 or more  
14 prior convictions for committing or attempting to commit an  
15 offense under this part.

16 (c) If any of the following apply, the person is guilty of a  
17 felony punishable by imprisonment for not more than 5 years or a  
18 fine of not more than \$10,000.00 or 3 times the value of the  
19 property involved, whichever is greater, or both imprisonment and  
20 a fine:

21 (i) The value of the property involved is \$1,000.00 or more  
22 but less than \$20,000.00.

23 (ii) The person violates subdivision (b) (i) and has 1 or more  
24 prior convictions for violating or attempting to violate this  
25 part. For purposes of this subparagraph, however, a prior  
26 conviction does not include a conviction for a violation or  
27 attempted violation of subdivision (a) or (b) (ii).

1 (d) If any of the following apply, the person is guilty of a  
2 felony punishable by imprisonment for not more than 10 years or a  
3 fine of not more than \$15,000.00 or 3 times the value of the  
4 property involved, whichever is greater, or both imprisonment and  
5 a fine:

6 (i) The property involved has a value of \$20,000.00 or more.

7 (ii) The person violates subdivision (c) (i) and has 2 or more  
8 prior convictions for committing or attempting to commit an  
9 offense under this part. For purposes of this subparagraph,  
10 however, a prior conviction does not include a conviction for a  
11 violation or attempted violation of subdivision (a) or (b) (ii).

12 (2) The values of property damaged in separate incidents  
13 pursuant to a scheme or course of conduct within any 12-month  
14 period may be aggregated to determine the total value of property  
15 damaged.

16 (3) If the prosecuting attorney intends to seek an enhanced  
17 sentence based upon the defendant having 1 or more prior  
18 convictions, the prosecuting attorney shall include on the  
19 complaint and information a statement listing the prior  
20 conviction or convictions. The existence of the defendant's prior  
21 conviction or convictions shall be determined by the court,  
22 without a jury, at sentencing or at a separate hearing for that  
23 purpose before sentencing. The existence of a prior conviction  
24 may be established by any evidence relevant for that purpose,  
25 including, but not limited to, 1 or more of the following:

26 (a) A copy of the judgment of conviction.

27 (b) A transcript of a prior trial, plea-taking, or

1 sentencing.

2 (c) Information contained in a presentence report.

3 (d) The defendant's statement.

4 (4) If the sentence for a conviction under this section is  
5 enhanced by 1 or more prior convictions, those prior convictions  
6 shall not be used to further enhance the sentence for the  
7 conviction pursuant to section 10, 11, or 12 of chapter IX of the  
8 code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and  
9 769.12.

10 (5) A person who forges a bill of sale or other evidence of  
11 title prescribed by ~~the department or the~~ department of  
12 agriculture or the federal agency that has jurisdiction is guilty  
13 of a misdemeanor, punishable by imprisonment for not more than 90  
14 days, or a fine of not more than \$100.00, or both.

15 (6) In addition to the penalties provided for in this  
16 section, a person who violates this part by illegally removing or  
17 cutting a plant is liable in a civil action filed by the state or  
18 the property owner for up to 3 times the fair market value of the  
19 damage caused by the unlawful act or \$100.00, whichever is  
20 greater, and for court costs and attorney fees. Damages collected  
21 under this subsection shall be paid to the owner of the lands  
22 from which the plants were illegally removed or, if removed from  
23 state owned lands, to the state treasurer, who shall credit the  
24 deposit to the fund that was used to purchase the land on which  
25 the violation occurred.

26 (7) A person who violates this part by not having in his or  
27 her possession a current tax receipt or deed with respect to

1 property, or a copy of the receipt or deed, indicating that the  
2 person owned the land from which the plants were taken shall not  
3 be prosecuted under this part for that violation if he or she  
4 subsequently produces a current tax receipt or deed showing that  
5 person's ownership of the property from which the plants were  
6 taken.