



132nd MAINE LEGISLATURE

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Legislative Document

No. 402

H.P. 256

House of Representatives, February 4, 2025

**An Act to Move the Natural Areas Program from the Department of
Agriculture, Conservation and Forestry to the Department of Inland
Fisheries and Wildlife and to Amend the Law Governing
Administration of the Bureau of Resource Management Within the
Department of Inland Fisheries and Wildlife**

Submitted by the Department of Inland Fisheries and Wildlife pursuant to Joint Rule 204.
Reference to the Committee on Agriculture, Conservation and Forestry suggested and
ordered printed.

Robert B. Hunt

ROBERT B. HUNT
Clerk

Presented by Representative DILL of Old Town.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 12 MRSA c. 201-A, sub-c. 1**, as amended, is further amended by amending
3 the subchapter headnote to read:

4 **SUBCHAPTER 1**

5 **DIVISION OF GEOLOGY, ~~NATURAL AREAS~~ AND COASTAL RESOURCES**

6 **Sec. 2. 12 MRSA §541-A**, as amended by PL 2021, c. 398, Pt. YYY, §1, is further
7 amended to read:

8 **§541-A. Division of Geology, ~~Natural Areas~~ and Coastal Resources**

9 The Division of Geology, ~~Natural Areas~~ and Coastal Resources is established within
10 the Department of Agriculture, Conservation and Forestry and is administered by the
11 commissioner. The division consists of the Maine Geological Survey, referred to in this
12 chapter as "the "survey," ~~and the Natural Areas Program.~~"

13 **Sec. 3. 12 MRSA §544**, as amended by PL 2011, c. 655, Pt. II, §3 and affected by
14 §11 and amended by c. 657, Pt. W, §§5 and 6, is repealed.

15 **Sec. 4. 12 MRSA §544-B**, as amended by PL 2007, c. 395, §§10 and 11, is repealed.

16 **Sec. 5. 12 MRSA §544-C**, as enacted by PL 1999, c. 556, §13, is repealed.

17 **Sec. 6. 12 MRSA §10001, sub-§19**, as enacted by PL 2003, c. 414, Pt. A, §2 and
18 affected by c. 614, §9, is amended to read:

19 **19. Endangered fish or wildlife species.** "Endangered fish or wildlife species" means
20 a species of fish or wildlife that has been determined by the commissioner to be in danger
21 of extinction throughout all or a significant portion of its range and that is listed as a state
22 endangered species under section 12803, subsection 3.

23 **Sec. 7. 12 MRSA §10001, sub-§35-A** is enacted to read:

24 **35-A. Invasive species.** A nonnative fish, wildlife or plant species that causes
25 economic or environmental harm by developing self-sustaining populations that become
26 dominant or disruptive to native species or natural habitats.

27 **Sec. 8. 12 MRSA §10001, sub-§42-D** is enacted to read:

28 **42-D. Natural area.** "Natural area" means any area of land or water, or both land and
29 water, whether publicly or privately owned, that retains or has reestablished its natural
30 character, though it need not be completely natural and undisturbed, and that supports,
31 harbors or otherwise contains endangered, threatened or rare plants, animals and
32 ecosystems or associated habitats of scientific and ecological value.

33 **Sec. 9. 12 MRSA §10001, sub-§62**, as enacted by PL 2003, c. 414, Pt. A, §2 and
34 affected by c. 614, §9, is amended to read:

35 **62. Threatened fish or wildlife species.** "Threatened fish or wildlife species" means
36 a species of fish or wildlife that has been determined by the commissioner as likely to
37 become an endangered species within the foreseeable future throughout all or a significant

1 portion of its range and that is listed as a state threatened species under section 12803,
2 subsection 3.

3 **Sec. 10. 12 MRSA §10053**, as amended by PL 2017, c. 205, §§2 to 4, is further
4 amended to read:

5 **§10053. Bureau of Resource Management**

6 The Bureau of Resource Management is established within the Department of Inland
7 Fisheries and Wildlife. The bureau is equal in organizational level and status with other
8 major organizational units within the department or its successors. The bureau is
9 administered by a director of wildlife and a director of fisheries and hatcheries who is are
10 immediately responsible to the deputy commissioner. The ~~director possesses~~ directors
11 possess full authority and responsibility for administering all the powers and duties of the
12 bureau within their respective divisions, subject to the direction of the commissioner and
13 except as otherwise provided by statute. The responsibilities of the bureau include, but are
14 not limited to:

15 **1. Wildlife conservation and management.** The conservation and management of
16 the wildlife resources in the State for their preservation, protection, enhancement and use;

17 **2. Fisheries conservation and management.** The conservation and management of
18 the inland fisheries resources in the public waters of the State for their preservation,
19 protection, enhancement and use;

20 **3. Propagation of fish.** The propagation of fish for the effective conservation and
21 management of inland fisheries resources in public waters of the State;

22 **4. Habitat conservation and management.** The conservation and management of
23 habitat for the protection, preservation, enhancement and use of inland fisheries and
24 wildlife resources, plants and natural areas;

25 **5. Wildlife sanctuaries; wildlife management areas.** The management of wildlife
26 sanctuaries and wildlife management areas for the State as designated in chapter 925;

27 **6. Data collection.** The collection of data for the effective management of inland
28 fisheries and wildlife resources, plants and natural areas;

29 **7. Research and monitoring.** Research and monitoring activities for the effective
30 conservation and management of inland fisheries and wildlife resources, plants and natural
31 areas;

32 **8. Animal damage control.** The coordination of animal damage control functions
33 throughout the State, including supplemental assistance for the control of coyotes and other
34 nuisance wildlife that exceeds normal funding and staffing levels within the department;

35 **9. Rules.** The development of rules governing the effective conservation and
36 management of the inland fisheries and wildlife resources of the State;

37 **10. Land acquisition.** The acquisition and development of land for the protection,
38 preservation and enhancement of inland fisheries and wildlife resources, plants and natural
39 areas; ~~and~~

40 **11. Resource planning.** The coordination with other resource management staff to
41 develop both short-term and long-term plans for the preservation, protection, enhancement

1 and use of inland fisheries and wildlife resources, plants and natural areas. The bureau shall
2 undertake activities as directed by the commissioner; and

3 **12. Invasive species management.** The management of invasive species for the
4 protection of inland fisheries and wildlife resources, plants and natural areas.

5 **Sec. 11. 12 MRSA §10105, sub-§19**, as enacted by PL 2021, c. 65, §2, is amended
6 to read:

7 **19. Species Fish or wildlife species of special concern.** The commissioner by rule
8 shall establish criteria for determining when a species of fish or wildlife that is not an
9 endangered species or a threatened species is of special concern. The rules may include
10 different criteria for categories of species of special concern, including a category for
11 species that are rare. The rules must list the species that meet the criteria established in
12 rule. The commissioner shall use the list in administering section 12152 and may also use
13 the list in administering any other laws or programs or when providing advisory
14 recommendations to other entities or agencies on fish and wildlife matters in accordance
15 with applicable laws or rules.

16 Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter
17 375, subchapter 2-A.

18 **Sec. 12. 12 MRSA §10108, sub-§11, ¶B**, as enacted by PL 2003, c. 655, Pt. B,
19 §30 and affected by §422, is amended by amending subparagraph (1) to read:

20 (1) An agent may use snares only for animal damage control purposes to help meet
21 management goals established by the commissioner for deer, threatened fish or
22 wildlife species or endangered fish or wildlife species or other wildlife species or
23 to benefit agricultural interests as described in paragraph C.

24 **Sec. 13. 12 MRSA §10108, sub-§11, ¶B**, as enacted by PL 2003, c. 655, Pt. B,
25 §30 and affected by c. 655, Pt. B, §422, is amended by amending the 2nd blocked paragraph
26 to read:

27 The commissioner shall adopt policies and procedures on the use of snares as necessary
28 to minimize the potential for taking nontarget species and to adequately protect
29 threatened and endangered fish or wildlife species.

30 **Sec. 14. 12 MRSA §10268** is enacted to read:

31 **§10268. Natural Areas Conservation Fund**

32 **1. Fund established.** The Natural Areas Conservation Fund, referred to in this section
33 as "the fund," is established as a nonlapsing separate account to be administered by the
34 commissioner to fund investigation, conservation and management of native plants and
35 natural areas as described in this chapter and for administrative and personnel costs for the
36 purposes of this section.

37 **2. Funding.** Income from gifts, bequests, devises, grants, fees and other sources may
38 be deposited in the fund.

39 **3. Use of the fund.** The commissioner may make grants from the fund to any person,
40 organization, state agency or other entity to undertake inventory of and research about
41 native plants and natural areas.

1 Funds in the fund, including earnings, may not be deposited in the General Fund or any
2 other fund except as provided by law.

3 **Sec. 15. 12 MRSA §10301, sub-§3**, as enacted by PL 2003, c. 414, Pt. A, §2 and
4 affected by c. 614, §9 and amended by PL 2011, c. 657, Pt. W, §6, is repealed.

5 **Sec. 16. 12 MRSA §10308, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2 and
6 affected by c. 614, §9 and amended by PL 2011, c. 657, Pt. W, §6, is further amended to
7 read:

8 **1. Members.** The board consists of 7 members. The commissioner, the Commissioner
9 of Agriculture, Conservation and Forestry and the ~~Coordinator of the Natural Areas~~
10 ~~Program~~ Commissioner of the Department of Marine Resources are permanent members
11 and their designees may represent them at board meetings. The Governor shall appoint the
12 remaining 4 citizen members subject to the review of the joint standing committee of the
13 Legislature having jurisdiction over natural resources matters and confirmation by the
14 Senate. One of these members must be a representative of a state sportsmen's organization
15 of persons who hunt, fish or trap, one must be a representative of a state wildlife
16 conservation organization and one must work in a field related to natural resources.

17 **Sec. 17. 12 MRSA §10309, sub-§2, ¶D**, as enacted by PL 2003, c. 414, Pt. A, §2
18 and affected by c. 614, §9, is amended to read:

19 D. Rare or exemplary natural communities or ecosystems as determined by the ~~State's~~
20 ~~Natural Areas Program database~~ Department of Inland Fisheries and Wildlife;

21 **Sec. 18. 12 MRSA c. 925**, as amended, is amended by amending the chapter
22 headnote to read:

23 CHAPTER 925

24 FISH AND WILDLIFE AND NATURAL AREAS MANAGEMENT AND 25 RESEARCH

26 **Sec. 19. 12 MRSA c. 925, sub-c. 3**, as amended, is amended by amending the
27 subchapter headnote to read:

28 SUBCHAPTER 3

29 ENDANGERED FISH AND WILDLIFE SPECIES; MANAGEMENT AND 30 RESEARCH

31 **Sec. 20. 12 MRSA §12803**, as amended by PL 2023, c. 60, §§1 to 19, is further
32 amended to read:

33 **§12803. Designation of endangered species of fish or wildlife**

34 **1. Standards.** The commissioner shall recommend a species of fish or wildlife to be
35 listed as endangered or threatened whenever the commissioner finds one of the following
36 to exist:

- 1 A. The present or threatened destruction, modification or curtailment of its habitat or
- 2 range;
- 3 B. Overutilization for commercial, sporting, scientific, educational or other purposes;
- 4 C. Disease or predation;
- 5 D. Inadequacy of existing regulatory mechanisms; or
- 6 E. Other natural or human-made factors affecting its continued existence within the
- 7 State.

8 **2. Commissioner's duties.** In recommending a species of fish or wildlife to be listed
9 as endangered or threatened, the commissioner shall:

- 10 A. Make use of the best scientific, commercial and other data available;
- 11 B. Consult, as appropriate, with federal agencies, other interested state agencies, other
- 12 states having a common interest in the species of fish or wildlife and interested persons
- 13 and organizations;
- 14 C. Maintain a list of all species of fish or wildlife that the Legislature has designated
- 15 to be endangered or threatened, naming each species by both its scientific and common
- 16 name, if any, and specifying over what portion of its range each species so designated
- 17 is endangered or threatened; and
- 18 D. Report to the joint standing committee of the Legislature having jurisdiction over
- 19 inland fisheries and wildlife matters no less frequently than every 4 years on any
- 20 recommendations, status updates or changes to the list of fish or wildlife species
- 21 designated as endangered or threatened.

22 **3. Legislative authority.** The Legislature, as sole authority, shall designate a species
23 of fish or wildlife as a state endangered or state threatened species. The list of state
24 endangered or state threatened species of fish or wildlife by common name, scientific name
25 and status is as follows:

- 26 A. Least tern, *Sterna antillarum*, endangered;
- 27 B. Golden eagle, *Aquila chrysaetos*, endangered;
- 28 C. Piping plover, *Charadrius melodus*, endangered;
- 29 D. Sedge wren, *Cistothorus stellaris*, endangered;
- 30 E. Grasshopper sparrow, *Ammodramus savannarum*, endangered;
- 31 G. Black racer, *Coluber constrictor*, endangered;
- 32 H. Roseate tern, *Sterna dougallii*, endangered;
- 33 I. Northern bog lemming, *Synaptomys borealis*, threatened;
- 34 J. Blanding's turtle, *Emydoidea blandingii*, endangered;
- 35 K. Black tern, *Chlidonias niger*, endangered;
- 36 L. American pipit, *Anthus rubescens* (breeding population only), endangered;
- 37 M. Peregrine falcon, *Falco peregrinus* (breeding population only), endangered;
- 38 N. Roaring Brook mayfly, *Epeorus frisoni*, threatened;

- 1 O. Ringed boghaunter, *Williamsonia lintneri*, threatened;
2 P. Clayton's copper, *Tharsalea dorcas claytoni*, threatened;
3 Q. Edwards' hairstreak, *Satyrium edwardsii*, endangered;
4 R. Hessel's hairstreak, *Callophrys hesseli*, endangered;
5 S. Katahdin arctic, *Oeneis polixenes katahdin*, endangered;
6 T. Spotted turtle, *Clemmys guttata*, threatened;
7 V. Razorbill, *Alca torda*, threatened;
8 W. Atlantic puffin, *Fratercula arctica*, threatened;
9 X. Harlequin duck, *Histrionicus histrionicus*, threatened;
10 Y. Arctic tern, *Sterna paradisaea*, threatened;
11 Z. Upland sandpiper, *Bartramia longicauda*, threatened;
12 AA. Swamp darter, *Etheostoma fusiforme*, threatened;
13 BB. Tidewater mucket, *Atlanticoncha ochracea*, threatened;
14 CC. Yellow lampmussel, *Lampsilis cariosa*, threatened;
15 DD. Tomah mayfly, *Siphonisca aerodromia*, threatened;
16 FF. Twilight moth, *Lycia rachelae*, threatened;
17 GG. Pine barrens zanclognatha, *Zanclognatha martha*, threatened;
18 HH. Redfin pickerel, *Esox americanus americanus*, endangered;
19 II. Juniper hairstreak, *Callophrys gryneus*, endangered;
20 KK. New England cottontail, *Sylvilagus transitionalis*, endangered;
21 LL. Black-crowned night heron, *Nycticorax nycticorax*, endangered;
22 MM. Common gallinule, *Gallinula galeata*, threatened;
23 NN. Great cormorant, *Phalacrocorax carbo* (breeding population only), threatened;
24 OO. Short-eared owl, *Asio flammeus* (breeding population only), threatened;
25 PP. Arctic fritillary, *Boloria chariclea grandis*, threatened;
26 QQ. Sleepy duskywing, *Erynnis brizo*, threatened;
27 RR. Boreal snaketail, *Ophiogomphus colubrinus*, threatened;
28 SS. Brook floater, *Alasmidonta varicosa*, threatened;
29 TT. Barrow's goldeneye, *Bucephala islandica*, threatened;
30 UU. Least bittern, *Ixobrychus exilis*, endangered;
31 VV. Cobblestone tiger beetle, *Cicindela marginipennis*, endangered;
32 WW. Frigga fritillary, *Boloria frigga saga*, endangered;
33 XX. Little brown bat, *Myotis lucifugus*, endangered;
34 YY. Northern long-eared bat, *Myotis septentrionalis*, endangered;

- 1 ZZ. Eastern small-footed bat, *Myotis leibii*, threatened;
- 2 AAA. Six-whorl vertigo, *Vertigo morsei*, endangered;
- 3 BBB. Ashton's cuckoo bumble bee, *Bombus ashtoni*, endangered;
- 4 CCC. Bank swallow, *Riparia riparia*, threatened;
- 5 DDD. Bicknell's thrush, *Catharus bicknelli*, threatened;
- 6 EEE. Blackpoll warbler, *Setophaga striata*, threatened;
- 7 FFF. Cliff swallow, *Petrochelidon pyrrhonota*, threatened;
- 8 GGG. Margined tiger beetle, *Ellipsoptera marginata*, threatened;
- 9 HHH. Saltmarsh sparrow, *Ammodramus caudacutus*, endangered; and
- 10 III. Tricolored bat, *Perimyotis subflavus*, threatened.

11 **4. Process for recommendation; notice and hearings.** Prior to recommending an
12 addition, deletion or other change to the endangered and threatened species listed in
13 subsection 3, the commissioner shall provide for public notice and at least one public
14 hearing on that proposed recommendation in accordance with the provisions of Title 5,
15 chapter 375, subchapter 2.

16 **5. Designation by Legislature.** The Legislature may not amend the list of endangered
17 or threatened species in subsection 3 except upon the recommendation of the
18 commissioner.

19 **Sec. 21. 12 MRSA §12804**, as amended by PL 2015, c. 301, §40, is further amended
20 to read:

21 **§12804. Conservation of endangered species of fish or wildlife**

22 **1. Conservation of nongame and endangered species of fish or wildlife.** The
23 commissioner may establish such programs as are necessary to bring any endangered or
24 threatened species of fish or wildlife to the point where it is no longer endangered or
25 threatened, including:

- 26 A. Acquisition of land or aquatic habitat or interests in land or aquatic habitat;
- 27 B. Propagation;
- 28 C. Live trapping;
- 29 D. Transplantation. Prior to the transplantation, introduction or reintroduction of an
30 endangered or threatened species of fish or wildlife in the State, the commissioner shall,
31 in conjunction with the Department of Marine Resources, when appropriate, develop a
32 recovery plan for that species, conduct a public hearing on that recovery plan pursuant
33 to Title 5, Part 18 and submit that plan to the joint standing committee of the Legislature
34 having jurisdiction over inland fisheries and wildlife matters. The introduction or
35 reintroduction of that species must be conducted in accordance with the recovery plan
36 developed under this paragraph and may not begin sooner than 90 days after all
37 conditions of this paragraph have been met; and
- 38 E. In the extraordinary case where population pressures within a given group
39 ecosystem can not be otherwise relieved, regulated taking.

1 **1. Prohibited acts regarding endangered or threatened species of fish or wildlife;**
2 **negligence.** Except as provided in section 12808-A, a person may not negligently:

3 A. Import into the State or export out of the State any endangered or threatened species
4 of fish or wildlife. A person who violates this paragraph commits a Class E crime, for
5 which a fine of \$1,000 must be adjudged, none of which may be suspended;

6 B. Hunt, take, trap, harass or possess any endangered or threatened species of fish or
7 wildlife within the State. A person who violates this paragraph commits a Class E
8 crime, for which a fine of \$1,000 must be adjudged, none of which may be suspended;

9 C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means
10 whatsoever, any endangered or threatened species of fish or wildlife or any part of an
11 endangered or threatened species of fish or wildlife. A person who violates this
12 paragraph commits a Class E crime, for which a fine of \$1,000 must be adjudged, none
13 of which may be suspended; or

14 D. Feed or set bait for any endangered or threatened species of fish or wildlife. A
15 person who violates this paragraph commits a Class E crime for which a fine of \$1,000
16 must be adjudged, none of which may be suspended.

17 **1-A. Prohibited acts regarding endangered or threatened species of fish or**
18 **wildlife; intentional.** Except as provided in section 12808-A, a person may not
19 intentionally:

20 A. Import into the State or export out of the State any endangered or threatened species
21 of fish or wildlife. A person who violates this paragraph commits a Class D crime, for
22 which a fine of \$2,000 must be adjudged, none of which may be suspended;

23 B. Hunt, take, trap, harass or possess any endangered or threatened species of fish or
24 wildlife within the State. A person who violates this paragraph commits a Class D
25 crime, for which a fine of \$2,000 must be adjudged, none of which may be suspended;

26 C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means
27 whatsoever, any endangered or threatened species of fish or wildlife or any part of an
28 endangered or threatened species of fish or wildlife. A person who violates this
29 paragraph commits a Class D crime, for which a fine of \$2,000 must be adjudged, none
30 of which may be suspended; or

31 D. Feed or set bait for any endangered or threatened species of fish or wildlife. A
32 person who violates this paragraph commits a Class D crime, for which a fine of \$2,000
33 must be adjudged, none of which may be suspended.

34 **Sec. 26. 12 MRSA §12808-A**, as enacted by PL 2015, c. 423, §2, is amended to
35 read:

36 **§12808-A. Authorized activities regarding endangered or threatened species of fish**
37 **or wildlife**

38 Notwithstanding section 12808 and notwithstanding section 10650 as it applies to rules
39 adopted in accordance with this subchapter, the commissioner may authorize certain
40 activities regarding endangered or threatened species of fish or wildlife in accordance with
41 the following.

1 **1. Education, research, conservation and transportation.** Under such terms and
2 conditions as the commissioner prescribes, the commissioner may:

3 A. Authorize an act prohibited by section 12808 or by rule for educational or scientific
4 purposes or to enhance the recovery or survival of an endangered or threatened species
5 of fish or wildlife; and

6 B. Authorize a person to transport without restriction but in accordance with the terms
7 of any federal or state permit an endangered or threatened species of fish or wildlife
8 into, within or out of the State.

9 **2. Specific activity; incidental take plan.** Under such terms and conditions as the
10 commissioner prescribes, the commissioner may authorize a person to take an endangered
11 or threatened species of fish or wildlife pursuant to an incidental take plan if:

12 A. The taking is incidental to, and not the purpose of, carrying out an otherwise lawful
13 activity;

14 B. The taking will not impair the recovery of any endangered or threatened species of
15 fish or wildlife; and

16 C. The person develops and implements an incidental take plan in accordance with
17 subsection 5 and that plan is approved by the commissioner. The commissioner may
18 modify or waive the requirement under this paragraph if the commissioner determines
19 the criteria in subsection 5 are substantially addressed in another permit, license or
20 agreement.

21 The commissioner shall seek input from knowledgeable individuals or groups on each
22 proposed incidental take plan developed under this subsection.

23 If the person violates any of the terms or conditions of an authorization granted pursuant to
24 this subsection, the authorization must be immediately suspended or revoked and the
25 person is subject to the prohibitions and penalties in section 12808 for that violation.

26 **3. Widespread activity; incidental take plan.** Under such terms and conditions as
27 the commissioner prescribes, the commissioner may authorize the taking of an endangered
28 or threatened species of fish or wildlife pursuant to a widespread activity incidental take
29 plan developed by the commissioner in accordance with subsection 5 if:

30 A. The taking is incidental to, and not the purpose of, carrying out an otherwise lawful
31 activity;

32 B. The taking will not impair the recovery of any endangered or threatened species of
33 fish or wildlife; and

34 C. The commissioner determines that the activity is widespread, is conducted by a
35 reasonably identifiable group of participants and poses a manageable risk of taking an
36 endangered or threatened species of fish or wildlife.

37 The commissioner shall hold at least one public hearing and seek input from knowledgeable
38 individuals or groups on each proposed incidental take plan developed under this
39 subsection.

40 If a person violates any of the terms or conditions of an authorization granted pursuant to
41 this subsection, the authorization must be immediately suspended or revoked for that

1 person and that person is subject to the prohibitions and penalties in section 12808 for that
2 violation.

3 **4. Broad activity exemption.** The commissioner may adopt rules to provide an
4 exemption, under such terms and conditions as the commissioner determines necessary, for
5 a specific activity otherwise prohibited by section 12808, if the commissioner determines
6 the exemption:

7 A. Addresses a specific activity that is widespread in its occurrence but may not have
8 a reasonably identifiable group of participants;

9 B. Poses little or no risk of taking an endangered or threatened species of fish or
10 wildlife; and

11 C. Will not individually or cumulatively impair the recovery of any endangered or
12 threatened species of fish or wildlife.

13 The commissioner shall hold at least one public hearing and seek input from knowledgeable
14 individuals or groups on each proposed rule to provide a broad activity exemption.

15 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
16 chapter 375, subchapter 2-A.

17 **5. Incidental take plan criteria.** The commissioner may approve or adopt an
18 incidental take plan developed pursuant to subsection 2 or 3 that minimizes the incidental
19 taking of an endangered or threatened species of fish or wildlife and that provides the
20 following:

21 A. A description of the specific activities sought to be authorized by the incidental
22 take plan and an analysis of potential alternatives;

23 B. The individual and cumulative effects that may reasonably be anticipated to result
24 from the proposed actions covered by the incidental take plan;

25 C. The recovery measures the applicant will implement to prevent, minimize and
26 mitigate the individual and cumulative effects and any provisions that are necessary to
27 prevent, minimize and mitigate circumstances that are likely to impair the recovery of
28 any endangered or threatened species of fish or wildlife covered by the incidental take
29 plan;

30 D. The procedures for monitoring the effectiveness of the recovery measures in the
31 incidental take plan;

32 E. The anticipated costs of implementing the incidental take plan and the availability
33 of necessary funding for the applicant to implement the plan; and

34 F. Other modifications to the incidental take plan or additional measures, if any, that
35 the commissioner may require and such other matters as the commissioner determines
36 to be necessary for the recovery of species of fish or wildlife consistent with this
37 section.

38 **Sec. 27. 12 MRSA §12810**, as amended by PL 2019, c. 267, §3, is further amended
39 to read:

40 **§12810. Delisted species of fish or wildlife**

1 **2. Natural heritage database.** The commissioner shall maintain a natural heritage
2 database that must contain data from inventories and other data sources and other relevant
3 biological, ecological or other information about natural areas described in subsection 1
4 and about ecologically significant sites that harbor or otherwise contain these features.
5 Information contained in the natural heritage database may be made available as necessary
6 or appropriate for conservation and land use planning, environmental review, scientific
7 research and inquiry, education or other appropriate use. For the purposes of this
8 subsection, "appropriate use" is one that will not jeopardize endangered species or habitats.

9 **3. Ecological reserves database.** The commissioner shall maintain a database of areas
10 designated as ecological reserves as defined in section 1801, subsection 4-A and other
11 public lands designated and managed for equivalent purposes and shall provide scientific
12 review of areas on state land proposed as ecological reserves.

13 **4. Promotion of conservation of natural areas.** The commissioner shall promote
14 the conservation of natural areas by:

15 A. Making available current and accurate information to all appropriate entities to
16 interpret, educate or otherwise inform so as to support planning and conservation
17 activities in this State;

18 B. Promoting voluntary action to conserve and protect natural areas in this State;

19 C. Entering into agreements with landowners of natural areas to promote appropriate
20 and effective management of these areas in order to maintain and enhance the natural
21 value of these areas. The commissioner shall notify landowners of natural areas of the
22 natural value of their land and the implications of voluntary conservation; and

23 D. Developing and disseminating educational or technical materials for the purpose of
24 informing the general public and other interested persons or institutions about natural
25 areas and the value of these areas.

26 **§12823. Endangered plant species and threatened plant species**

27 The commissioner has the following responsibilities related to endangered plant
28 species and threatened plant species.

29 **1. Official list of endangered plant species and threatened plant species.** The
30 commissioner shall establish and maintain an official list of endangered plant species and
31 threatened plant species of the State. The purpose of the list is informational and may be
32 provided on an informational basis to public agencies, private institutions or individuals
33 for environmental assessment, land management or educational purposes.

34 **2. Identification procedures.** The commissioner may establish procedures to
35 substantiate the identification of endangered plant species and threatened plant species. In
36 determining and revising the official list under subsection 1, the commissioner shall use
37 the department's rare plant database and the knowledge of botanists in the State. In addition,
38 the commissioner shall consult with federal agencies, interested state agencies, other states
39 or provinces having a common interest and other interested persons and organizations. The
40 commissioner shall determine criteria for each category. When establishing the list, the
41 commissioner shall consider aspects of plant biology that contribute to a species' rarity,
42 such as:

1 A. Endemism. A plant species or subspecies may be geographically restricted to the
2 State or areas immediately adjacent to the State;

3 B. Scarcity. A plant species or subspecies may be scarce throughout its distribution in
4 North America and occur in only a few locations in the State;

5 C. Special habitat. A plant species or subspecies may require habitat that is scarce in
6 the State;

7 D. Limit of range. A plant species or subspecies in the State may be at the edge of its
8 distribution or disjunct from its main distribution; and

9 E. Population decline or vulnerability. A plant species or subspecies may be threatened
10 or seriously declining due to habitat modification or destruction or from overcollection
11 for commercial, recreational or educational purposes.

12 **3. Public hearing.** The commissioner shall conduct at least one public hearing to
13 allow for public comment before establishing or revising the official list under subsection
14 1.

15 **4. Review of inventory.** The commissioner shall review the official list under
16 subsection 1 biennially and add or delete a plant species or subspecies based on new
17 botanical inventory data, taxonomic or other scientific studies or other documentation.

18 **§12824. Sensitive information**

19 The commissioner may withhold specific information on the location of a plant species,
20 subspecies or natural area and its component features if, in the judgment of the
21 commissioner, disclosure of this information would threaten the existence of that species
22 or subspecies or natural area. The commissioner may not deny a landowner or landowner's
23 designee information about species, subspecies or natural areas occurring on the
24 landowner's property or withhold this information from usual environmental review
25 procedures of local, state or federal regulatory agencies.

26 **Sec. 29. 36 MRSA §1109, sub-§3, ¶M,** as amended by PL 2007, c. 627, §29, is
27 further amended to read:

28 M. The identification of the land or of outstanding natural resources on the land by a
29 legislatively mandated program, on the state, local or federal level, as particular areas,
30 parcels, land types or natural resources for protection, including, but not limited to, the
31 ~~register database of critical areas under identified pursuant to Title 12, section 544-B~~
32 10053; the laws governing wildlife sanctuaries and management areas under Title 12,
33 section 10109, subsection 1 and Title 12, sections 12706 and 12708; the laws governing
34 the State's rivers under Title 12, chapter 200; the natural resource protection laws under
35 Title 38, chapter 3, subchapter 1, article 5-A; and the Maine Coastal Barrier Resources
36 Systems under Title 38, chapter 21;

37 **Sec. 30. 38 MRSA §480-B, sub-§1-C** is enacted to read:

38 **1-C. Critically imperiled.** "Critically imperiled" means a natural community,
39 ecosystem or species of fish, wildlife or plant that is at very high risk of extirpation in this
40 State due to very restricted range, very few populations or occurrences, very steep declines,
41 severe threats or other factors. This is given a ranking code of S1 within the state ranking
42 scale applied to a natural community, ecosystem or species of fish, wildlife or plant as
43 determined by the Department of Inland Fisheries and Wildlife.

1 **Sec. 31. 38 MRSA §480-B, sub-§5-D** is enacted to read:

2 **5-D. Imperiled.** "Imperiled" means a natural community, ecosystem or species of
3 fish, wildlife or plant that is at high risk of extirpation in this State due to restricted range,
4 few populations or occurrences, steep declines, severe threats or other factors. This is given
5 a ranking code of S2 within the state ranking scale applied to a natural community,
6 ecosystem or species of fish, wildlife or plant as determined by the Department of Inland
7 Fisheries and Wildlife.

8 **Sec. 32. 38 MRSA §480-B, sub-§10, ¶B,** as amended by PL 2023, c. 156, §§1 and
9 2, is further amended by amending subparagraph (4) to read:

10 (4) Habitat for state endangered and state threatened species of fish or wildlife
11 listed under Title 12, section 12803, subsection 3 that is within another protected
12 natural resource area or that is located wholly or partly within the boundaries of a
13 proposed project site that requires approval from:

14 (a) The department pursuant to this article or article 6, 7 or 8-A, except for
15 activity or development on a residential lot that is not part of a proposed multi
16 lot housing development; or

17 (b) The Maine Land Use Planning Commission pursuant to this article as
18 provided in section 480-E-1 or, for subdivisions and nonresidential uses only,
19 pursuant to Title 12, chapter 206-A.

20 **Sec. 33. 38 MRSA §480-U, sub-§2, ¶A,** as amended by PL 2009, c. 561, §38, is
21 further amended by amending subparagraph (3) to read:

22 (3) Contains endangered plant species or threatened plant species as ~~defined in~~
23 determined pursuant to Title 12, section 544 12823;

24 **Sec. 34. 38 MRSA §480-X, sub-§5,** as amended by PL 1999, c. 556, §32, is further
25 amended to read:

26 **5. Additional projects not eligible for Tier 2 review.** An activity in freshwater
27 wetlands containing a natural community that is imperiled (S2) or critically imperiled (S1),
28 as ~~defined~~ determined by the ~~Natural Areas Program pursuant to Title 12, section 544~~
29 Commissioner of Inland Fisheries and Wildlife is not eligible for Tier 2 review unless the
30 department determines that the activity will not negatively affect the freshwater wetlands
31 and other protected natural resources present.

32 **Sec. 35. 38 MRSA §480-Y, sub-§2, ¶C,** as amended by PL 1999, c. 556, §33, is
33 further amended to read:

34 C. The pond may not be located in a wetland containing endangered plant species or
35 threatened plant species as determined pursuant to Title 12, section ~~544-B, subsection~~
36 ~~3 12823~~ or containing a natural community that is imperiled (S2) or critically imperiled
37 (S1) as ~~defined~~ determined by the ~~Natural Areas Program pursuant to Title 12, section~~
38 544 Commissioner of Inland Fisheries and Wildlife.

39 **Sec. 36. 38 MRSA §488, sub-§19, ¶D,** as amended by PL 2011, c. 655, Pt. FF,
40 §13 and affected by §16 and amended by c. 657, Pt. W, §5, is further amended to read:

41 D. The former State Planning Office or the Department of Agriculture, Conservation
42 and Forestry or the Department of Inland Fisheries and Wildlife has determined that

1 the municipality has a comprehensive land use plan and land use ordinances or zoning
2 ordinances that are consistent with Title 30-A, chapter 187 in providing for the
3 protection of wildlife habitat, fisheries, unusual natural areas and archaeological and
4 historic sites.

5 **Sec. 37. 38 MRSA §490-D, sub-§1**, as amended by PL 2009, c. 293, §5, is further
6 amended to read:

7 **1. Significant wildlife habitat and other protected areas.** Affected land may not be
8 located in, on or over a significant wildlife habitat or other type of protected natural
9 resource, as defined in section 480-B, or in an area listed pursuant to ~~the Natural Areas~~
10 ~~Program~~, Title 12, section 544 12822. The department may allow excavation to occur
11 under this section as long as a permit is obtained pursuant to article 5-A. Permit
12 requirements for certain excavations in, on or over high and moderate value inland
13 waterfowl and wading bird habitat are also governed by section 480-GG.

14 **Sec. 38. 38 MRSA §490-Z, sub-§1**, as amended by PL 2009, c. 293, §6, is further
15 amended to read:

16 **1. Significant wildlife habitat and other protected areas.** Affected land may not be
17 located in, on or over a significant wildlife habitat or other type of protected natural
18 resource, as defined in section 480-B, or in an area listed pursuant to ~~the Natural Areas~~
19 ~~Program~~, Title 12, section 544 12822. The department may allow excavation to occur
20 under this section as long as a permit is obtained pursuant to article 5-A. Permit
21 requirements for certain excavations in, on or over high and moderate value inland
22 waterfowl and wading bird habitat are also governed by section 480-GG.

23 **SUMMARY**

24 This bill repeals the laws governing the Natural Areas Program administered by the
25 Department of Agriculture, Conservation and Forestry and reassigns certain
26 responsibilities under the program to the Department of Inland Fisheries and Wildlife. The
27 bill updates relevant definitions in the Maine Revised Statutes, Title 12 and
28 cross-references in Titles 36 and 38 to reflect these changes. The bill also establishes the
29 Natural Areas Conservation Fund, which is administered by the Commissioner of Inland
30 Fisheries and Wildlife. It also replaces the coordinator of the Natural Areas Program with
31 a person appointed by the commissioner who is responsible for monitoring natural areas.