

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-SIX

—  
H.P. 1433 - L.D. 2118

**An Act to Eliminate the Natural Areas Program and Reassign Certain Responsibilities Under the Program to the Department of Inland Fisheries and Wildlife and to Amend the Law Governing Administration of the Department of Inland Fisheries and Wildlife, Bureau of Resource Management**

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

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

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

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

**Sec. 2. 12 MRSA §544**, as amended by PL 2011, c. 655, Pt. II, §3 and affected by §11 and amended by c. 657, Pt. W, §§5 and 6, is repealed.

**Sec. 3. 12 MRSA §544-B**, as amended by PL 2007, c. 395, §§10 and 11, is repealed.

**Sec. 4. 12 MRSA §544-C**, as enacted by PL 1999, c. 556, §13, is repealed.

**Sec. 5. 12 MRSA §10001, sub-§19**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

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

**Sec. 6. 12 MRSA §10001, sub-§35-A** is enacted to read:

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

**Sec. 7. 12 MRSA §10001, sub-§42-D** is enacted to read:

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

**Sec. 8. 12 MRSA §10001, sub-§52-A** is enacted to read:

**52-A. Rare plant.** "Rare plant" means a species of native plant listed as endangered, threatened or considered vulnerable in the State due to factors such as endemism, scarcity, special habitat, range limits or population decline.

**Sec. 9. 12 MRSA §10001, sub-§58-A**, as enacted by PL 2021, c. 65, §1, is amended to read:

**58-A. Species of special concern.** "Species of special concern" means a species of fish or wildlife that is not an endangered fish or wildlife species or a threatened fish or wildlife species but meets criteria for being of special concern as established by the commissioner by rule under section 10105, subsection 19.

**Sec. 10. 12 MRSA §10001, sub-§62**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**62. Threatened fish or wildlife species.** "Threatened fish or wildlife species" means a species of fish or wildlife that has been determined by the commissioner as likely to become an endangered fish or wildlife species within the foreseeable future throughout all or a significant portion of its range and that is listed as a state threatened species under section 12803, subsection 3.

**Sec. 11. 12 MRSA §10053**, as amended by PL 2017, c. 205, §§2 to 4, is further amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

**11. Resource planning.** The coordination with other resource management staff to develop both short-term and long-term plans for the preservation, protection, enhancement and use of inland fisheries and wildlife resources, plants and natural areas. The bureau shall undertake activities as directed by the commissioner; and

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

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

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

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

**Sec. 13. 12 MRSA §10108, sub-§11, ¶B,** as enacted by PL 2003, c. 655, Pt. B, §30 and affected by §422, is amended by amending subparagraph (1) to read:

(1) An agent may use snares only for animal damage control purposes to help meet management goals established by the commissioner for deer, threatened fish or

wildlife species or endangered fish or wildlife species or other wildlife species or to benefit agricultural interests as described in paragraph C.

**Sec. 14. 12 MRSA §10108, sub-§11, ¶B**, as enacted by PL 2003, c. 655, Pt. B, §30 and affected by §422, is amended by amending the 2nd blocked paragraph to read:

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

**Sec. 15. 12 MRSA §10269** is enacted to read:

**§10269. Natural Areas Conservation Fund**

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

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

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

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

**Sec. 16. 12 MRSA §10301, sub-§3**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9 and amended by PL 2011, c. 657, Pt. W, §6, is repealed.

**Sec. 17. 12 MRSA §10307, sub-§3**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**3. Endangered fish or wildlife species and threatened fish or wildlife species.** Fifteen percent of the money in the fund for endangered fish or wildlife species and threatened fish or wildlife species conservation projects; and

**Sec. 18. 12 MRSA §10308, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9 and amended by PL 2011, c. 657, Pt. W, §6, is further amended to read:

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

**Sec. 19. 12 MRSA §10309, sub-§2, ¶C**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

C. Habitat of a threatened fish or wildlife species or endangered fish or wildlife species listed under state or federal law;

**Sec. 20. 12 MRSA §10309, sub-§2, ¶D**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

D. Rare or exemplary natural communities or ecosystems as determined by the ~~State's Natural Areas Program database~~ department;

**Sec. 21. 12 MRSA §10309, sub-§3**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**3. Conservation of endangered fish or wildlife species and threatened fish or wildlife species and their habitats.** For the category of conservation of endangered fish or wildlife species and threatened fish or wildlife species and their habitats:

A. A species or species group listed as endangered or threatened under state or federal law;

B. The habitat of one or more species or groups under paragraph A;

C. A species or species group not listed as threatened or endangered but, based on the best available scientific information, potentially warranting listing in the near future;

D. A species, group of species, natural community or ecosystem that has been documented as being in decline or recognized as being at risk of extirpation from the State;

E. Any species, group of species, natural community or ecosystem thought in the best professional judgment of biologists to be in decline or in danger of extirpation from the State but whose status is undetermined; and

F. Available matching funds; and

**Sec. 22. 12 MRSA c. 925, headnote** is amended to read:

## CHAPTER 925

### **FISH AND WILDLIFE AND NATURAL AREAS MANAGEMENT AND RESEARCH**

**Sec. 23. 12 MRSA c. 925, sub-c. 3, headnote** is amended to read:

## SUBCHAPTER 3

### **ENDANGERED FISH AND WILDLIFE SPECIES; MANAGEMENT AND RESEARCH**

**Sec. 24. 12 MRSA §12803**, as amended by PL 2023, c. 60, §§1 to 19, is further amended to read:

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

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

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

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

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

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

- A. Least tern, *Sterna antillarum*, endangered;
- B. Golden eagle, *Aquila chrysaetos*, endangered;
- C. Piping plover, *Charadrius melodus*, endangered;
- D. Sedge wren, *Cistothorus stellaris*, endangered;
- E. Grasshopper sparrow, *Ammodramus savannarum*, endangered;
- G. Black racer, *Coluber constrictor*, endangered;
- H. Roseate tern, *Sterna dougallii*, endangered;
- I. Northern bog lemming, *Synaptomys borealis*, threatened;
- J. Blanding's turtle, *Emydoidea blandingii*, endangered;
- K. Black tern, *Chlidonias niger*, endangered;

L. American pipit, *Anthus rubescens* (breeding population only), endangered;  
M. Peregrine falcon, *Falco peregrinus* (breeding population only), endangered;  
N. Roaring Brook mayfly, *Epeorus frisoni*, threatened;  
O. Ringed boghaunter, *Williamsonia lintneri*, threatened;  
P. Clayton's copper, *Tharsalea dorcas claytoni*, threatened;  
Q. Edwards' hairstreak, *Satyrium edwardsii*, endangered;  
R. Hessel's hairstreak, *Callophrys hesseli*, endangered;  
S. Katahdin arctic, *Oeneis polixenes katahdin*, endangered;  
T. Spotted turtle, *Clemmys guttata*, threatened;  
V. Razorbill, *Alca torda*, threatened;  
W. Atlantic puffin, *Fratercula arctica*, threatened;  
X. Harlequin duck, *Histrionicus histrionicus*, threatened;  
Y. Arctic tern, *Sterna paradisaea*, threatened;  
Z. Upland sandpiper, *Bartramia longicauda*, threatened;  
AA. Swamp darter, *Etheostoma fusiforme*, threatened;  
BB. Tidewater mucket, *Atlanticoncha ochracea*, threatened;  
CC. Yellow lampmussel, *Lampsilis cariosa*, threatened;  
DD. Tomah mayfly, *Siphonisca aerodromia*, threatened;  
FF. Twilight moth, *Lycia rachelae*, threatened;  
GG. Pine barrens zanclognatha, *Zanclognatha martha*, threatened;  
HH. Redfin pickerel, *Esox americanus americanus*, endangered;  
II. Juniper hairstreak, *Callophrys gryneus*, endangered;  
KK. New England cottontail, *Sylvilagus transitionalis*, endangered;  
LL. Black-crowned night heron, *Nycticorax nycticorax*, endangered;  
MM. Common gallinule, *Gallinula galeata*, threatened;  
NN. Great cormorant, *Phalacrocorax carbo* (breeding population only), threatened;  
OO. Short-eared owl, *Asio flammeus* (breeding population only), threatened;  
PP. Arctic fritillary, *Boloria chariclea grandis*, threatened;  
QQ. Sleepy duskywing, *Erynnis brizo*, threatened;  
RR. Boreal snaketail, *Ophiogomphus colubrinus*, threatened;  
SS. Brook floater, *Alasmidonta varicosa*, threatened;  
TT. Barrow's goldeneye, *Bucephala islandica*, threatened;  
UU. Least bittern, *Ixobrychus exilis*, endangered;  
VV. Cobblestone tiger beetle, *Cicindela marginipennis*, endangered;

WW. Frigga fritillary, *Boloria frigga* saga, endangered;  
XX. Little brown bat, *Myotis lucifugus*, endangered;  
YY. Northern long-eared bat, *Myotis septentrionalis*, endangered;  
ZZ. Eastern small-footed bat, *Myotis leibii*, threatened;  
AAA. Six-whorl vertigo, *Vertigo morsei*, endangered;  
BBB. Ashton's cuckoo bumble bee, *Bombus ashtoni*, endangered;  
CCC. Bank swallow, *Riparia riparia*, threatened;  
DDD. Bicknell's thrush, *Catharus bicknelli*, threatened;  
EEE. Blackpoll warbler, *Setophaga striata*, threatened;  
FFF. Cliff swallow, *Petrochelidon pyrrhonota*, threatened;  
GGG. Margined tiger beetle, *Ellipsoptera marginata*, threatened;  
HHH. Saltmarsh sparrow, *Ammodramus caudacutus*, endangered; and  
III. Tricolored bat, *Perimyotis subflavus*, threatened.

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

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

**Sec. 25. 12 MRSA §12804**, as amended by PL 2025, c. 333, §14, is further amended to read:

**§12804. Conservation of threatened fish or wildlife species and endangered fish or wildlife species**

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

- A. Acquisition of land or aquatic habitat or interests in land or aquatic habitat;
- B. Propagation;
- C. Live trapping;
- D. Transplantation. Prior to the transplantation, introduction or reintroduction of an endangered fish or wildlife species or threatened fish or wildlife species in the State, the commissioner shall, in conjunction with the Department of Marine Resources, when appropriate, develop a recovery plan for that species, conduct a public hearing on that recovery plan pursuant to Title 5, Part 18 and submit that plan to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. The introduction or reintroduction of that species must be conducted

in accordance with the recovery plan developed under this paragraph and may not begin sooner than 90 days after all conditions of this paragraph have been met; and

E. In the extraordinary case where population pressures for a given species cannot be otherwise relieved, regulated taking.

**2. Habitat.** For species of fish or wildlife designated as endangered or threatened under this subchapter the commissioner may by rule identify areas currently or historically providing physical or biological features essential to the conservation of the species and that may require special management considerations. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**3. Protection guidelines.** The commissioner may by rule develop guidelines for the protection of species of fish or wildlife designated as endangered or threatened under this subchapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**5. Confidential information.** Specific information concerning the location of a threatened ~~or~~ fish or wildlife species, endangered fish or wildlife species or species of special concern is confidential if, in the judgment of the commissioner, disclosure of that information would threaten the continued existence of the threatened ~~or~~ fish or wildlife species, endangered fish or wildlife species or species of special concern. If the commissioner determines that information is confidential under this subsection, the commissioner may not disclose the information except to the landowner whose property is the location of the threatened ~~or~~ fish or wildlife species, endangered fish or wildlife species or species of special concern.

**Sec. 26. 12 MRSA §12805**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7 and c. 614, §9, is amended to read:

**§12805. Cooperative agreements**

The commissioner may enter into agreements with federal agencies, other states, political subdivisions of this State or private persons for the establishment and maintenance of programs for the conservation of endangered fish or wildlife species or threatened fish or wildlife species and may receive all federal funds allocated for obligations to the State pursuant to these agreements.

**Sec. 27. 12 MRSA §12806, sub-§1, ¶A**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

A. Significantly alter the habitat identified under section 12804, subsection 2 of any species of fish or wildlife designated as threatened or endangered under this subchapter; or

**Sec. 28. 12 MRSA §12806, sub-§2, ¶A**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

A. The commissioner certifies that the proposed action would not pose a significant risk to any population of endangered fish or wildlife species or threatened fish or wildlife species within the State; and

**Sec. 29. 12 MRSA §12808**, as amended by PL 2019, c. 267, §§1 and 2 and corrected by RR 2019, c. 1, Pt. A, §§11 and 12, is further amended to read:

**§12808. Unauthorized activities regarding endangered fish or wildlife species or threatened fish or wildlife species**

For the purposes of this section and section 12808-A, "to take," "take" and "taking" mean the act or omission that results in the death of any endangered fish or wildlife species or threatened fish or wildlife species.

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

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

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

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

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

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

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

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

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

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

**Sec. 30. 12 MRSA §12808-A**, as enacted by PL 2015, c. 423, §2, is amended to read:

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

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

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

- A. Authorize an act prohibited by section 12808 or by rule for educational or scientific purposes or to enhance the recovery or survival of an endangered fish or wildlife species or threatened fish or wildlife species; and
- B. Authorize a person to transport without restriction but in accordance with the terms of any federal or state permit an endangered fish or wildlife species or threatened fish or wildlife species into, within or out of the State.

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

- A. The taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity;
- B. The taking will not impair the recovery of any endangered fish or wildlife species or threatened fish or wildlife species; and
- C. The person develops and implements an incidental take plan in accordance with subsection 5 and that plan is approved by the commissioner. The commissioner may modify or waive the requirement under this paragraph if the commissioner determines the criteria in subsection 5 are substantially addressed in another permit, license or agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 31. 12 MRSA §12810**, as amended by PL 2019, c. 267, §3, is further amended to read:

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

**1. Definition.** For purposes of this section, "delisted fish or wildlife species" means a fish or wildlife species that was listed as a state endangered or threatened species under section 12803 and after 2007 was removed from that list by the Legislature. The following is a delisted fish or wildlife species:

A. Bald eagle, *Haliaeetus leucocephalus*.

**2. Prohibited acts regarding delisted fish or wildlife species.** Except as otherwise authorized by the commissioner pursuant to this Part, a person may not intentionally:

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

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

C. Process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, a delisted fish or wildlife species or any part of a delisted fish or wildlife species. A person who violates this paragraph commits a Class D crime, for which a fine of \$2,000 must be adjudged, none of which may be suspended.

**Sec. 32. 12 MRSA c. 925, sub-c. 4** is enacted to read:

**SUBCHAPTER 4**

**NATURAL AREAS, RESEARCH AND MANAGEMENT**

**§12821. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Endangered plant species.** "Endangered plant species" means a native plant species that is in danger of extinction throughout all or a significant portion of its range within the State.

**2. Threatened plant species.** "Threatened plant species" means a species of native plant likely to become an endangered plant species within the foreseeable future throughout all or a significant portion of its range in the State.

**§12822. Commissioner's authority regarding conservation of natural areas**

**1. Inventory of natural areas.** The commissioner shall conduct an ongoing statewide inventory of the State's natural areas, including, but not limited to, rare plants, animals, natural communities and ecosystems or associated habitats and may conduct investigations related to the population, habitat needs, limiting factors and other biological and ecological data to support the mandates of the department or other cooperating agencies.

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

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

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

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

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

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

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

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

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

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

**2. Identification procedures.** The commissioner may establish procedures to substantiate the identification of endangered plant species and threatened plant species. In determining and revising the official list under subsection 1, the commissioner shall use

the department's rare plant database and the knowledge of botanists in the State. In addition, the commissioner shall consult with federal agencies, interested state agencies, other states or provinces having a common interest and other interested persons and organizations. The commissioner shall determine criteria for each category. When establishing the list, the commissioner shall consider aspects of plant biology that contribute to a species' rarity, such as:

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

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

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

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

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

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

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

#### **§12824. Sensitive information**

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

#### **§12825. Rulemaking**

The commissioner may not adopt rules to protect plants and plant communities under this subchapter except when required for the conservation of rare fish or wildlife species, threatened fish or wildlife species or endangered fish or wildlife species.

This section is repealed September 30, 2029.

**Sec. 33. 36 MRSA §1109, sub-§3, ¶M,** as amended by PL 2007, c. 627, §29, is further amended to read:

M. The identification of the land or of outstanding natural resources on the land by a legislatively mandated program, on the state, local or federal level, as particular areas, parcels, land types or natural resources for protection, including, but not limited to, the register database of critical areas under identified pursuant to Title 12, section 544-B

10053; the laws governing wildlife sanctuaries and management areas under Title 12, section 10109, subsection 1 and Title 12, sections 12706 and 12708; the laws governing the State's rivers under Title 12, chapter 200; the natural resource protection laws under Title 38, chapter 3, subchapter 1, article 5-A; and the Maine Coastal Barrier Resources Systems under Title 38, chapter 21;

**Sec. 34. 38 MRSA §480-B, sub-§1-C** is enacted to read:

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

**Sec. 35. 38 MRSA §480-B, sub-§5-D** is enacted to read:

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

**Sec. 36. 38 MRSA §480-B, sub-§10, ¶B**, as amended by PL 2023, c. 156, §2, is further amended by amending subparagraph (4) to read:

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

- (a) The department pursuant to this article or article 6, 7 or 8-A, except for activity or development on a residential lot that is not part of a proposed multi lot housing development; or
- (b) The Maine Land Use Planning Commission pursuant to this article as provided in section 480-E-1 or, for subdivisions and nonresidential uses only, pursuant to Title 12, chapter 206-A.

**Sec. 37. 38 MRSA §480-U, sub-§2, ¶A**, as amended by PL 2009, c. 561, §38, is further amended by amending subparagraph (3) to read:

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

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

**5. Additional projects not eligible for Tier 2 review.** An activity in freshwater wetlands containing a natural community that is imperiled (S2) or critically imperiled (S1), as ~~defined~~ determined by the ~~Natural Areas Program pursuant to Title 12, section 544~~ Commissioner of Inland Fisheries and Wildlife is not eligible for Tier 2 review unless the

department determines that the activity will not negatively affect the freshwater wetlands and other protected natural resources present.

**Sec. 39. 38 MRSA §480-Y, sub-§2, ¶C**, as amended by PL 1999, c. 556, §33, is further amended to read:

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

**Sec. 40. 38 MRSA §480-BB, first ¶**, as amended by PL 2023, c. 156, §3, is further amended to read:

The Department of Inland Fisheries and Wildlife shall adopt rules that define "significant vernal pool habitat," "high and moderate value waterfowl and wading bird habitat," "shorebird nesting, feeding and staging areas" and "habitat for state endangered and state threatened species of fish or wildlife listed under Title 12, section 12803, subsection 3" under section 480-B, subsection 10, paragraph B. The Department of Environmental Protection shall adopt rules regarding the criteria used to determine whether an area is significant vernal pool habitat, high and moderate value waterfowl and wading bird habitat, shorebird nesting, feeding and staging areas or habitat for state endangered and state threatened species of fish or wildlife listed under Title 12, section 12803, subsection 3 under section 480-B, subsection 10, paragraph B. The rules, as applicable, must:

**Sec. 41. 38 MRSA §490-D, sub-§1**, as amended by PL 2009, c. 293, §5, is further amended to read:

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

**Sec. 42. 38 MRSA §490-Z, sub-§1**, as amended by PL 2009, c. 293, §6, is further amended to read:

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

**Sec. 43. Department of Inland Fisheries and Wildlife report.** No later than November 4, 2026, the Department of Inland Fisheries and Wildlife shall provide a report, including any findings and recommendations, to the joint standing committees of the Legislature having jurisdiction over inland fisheries and wildlife matters and agriculture,

conservation and forestry matters on the reassignment of duties under the Natural Areas Program from the Department of Agriculture, Conservation and Forestry to the Department of Inland Fisheries and Wildlife. Each committee may submit legislation related to the subject matter of the report to the 133rd Legislature in 2027.

**Sec. 44. Report regarding rulemaking.** No later than February 15, 2029, the Department of Inland Fisheries and Wildlife shall provide a report, including any findings and recommendations, to the joint standing committees of the Legislature having jurisdiction over inland fisheries and wildlife matters and agriculture, conservation and forestry matters regarding the effect of the prohibition established in the Maine Revised Statutes, Title 12, section 12825, which provides that the Commissioner of Inland Fisheries and Wildlife may not adopt rules to protect plants and plant communities under Title 12, chapter 925, subchapter 4 except when required for the conservation of rare fish or wildlife species, threatened fish or wildlife species or endangered fish or wildlife species. Each committee may submit legislation related to the subject matter of the report to the 134th Legislature in 2029.

**Sec. 45. Transfer of Personal Services balances to All Other; Department of Inland Fisheries and Wildlife, Resource Management Services - Inland Fisheries and Wildlife.** Notwithstanding any provision of law to the contrary, for fiscal year 2026-27, the Department of Inland Fisheries and Wildlife is authorized to transfer up to \$150,000 of available balances of Personal Services appropriations, after all salary, benefit and other obligations are met, to the All Other line category of the Resource Management Services - Inland and Fisheries Wildlife program, General Fund account for the purpose of funding early detection and rapid response efforts to eradicate invasive stilt grass. These amounts may be transferred by financial order upon the recommendation of the State Budget Officer and approval of the Governor. These transfers are not considered adjustments to appropriations.

**Sec. 46. Transfer of Personal Services balances to All Other; Department of Inland Fisheries and Wildlife, Resource Management Services - Inland Fisheries and Wildlife.** Notwithstanding any provision of law to the contrary, for fiscal year 2026-27, the Department of Inland Fisheries and Wildlife is authorized to transfer up to \$25,000 of available balances of Personal Services appropriations, after all salary, benefit and other obligations are met, to the All Other line category of the Resource Management Services - Inland Fisheries and Wildlife program, General Fund account for the purpose of funding an update to the State's official list of threatened and endangered plants. These amounts may be transferred by financial order upon the recommendation of the State Budget Officer and approval of the Governor. These transfers are not considered adjustments to appropriations.

**Sec. 47. Appropriations and allocations.** The following appropriations and allocations are made.

**AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF  
Natural Areas Program Z821**

Initiative: Transfers one Public Service Manager II position, one Resource Management Coordinator position and 5 Biologist II positions from the Natural Areas Program within the Department of Agriculture, Conservation and Forestry to the Resource Management

Services - Inland Fisheries and Wildlife program within the Department of Inland Fisheries and Wildlife. This initiative also transfers All Other funds from the Natural Areas Program within the Department of Agriculture, Conservation and Forestry to the Resource Management Services - Inland Fisheries and Wildlife program within the Department of Inland Fisheries and Wildlife.

<b>GENERAL FUND</b>	<b>2025-26</b>	<b>2026-27</b>
Personal Services	\$0	(\$418,180)
All Other	\$0	(\$66,242)
<b>GENERAL FUND TOTAL</b>	<u>\$0</u>	<u>(\$484,422)</u>

<b>FEDERAL EXPENDITURES FUND</b>	<b>2025-26</b>	<b>2026-27</b>
Personal Services	\$0	(\$179,238)
All Other	\$0	(\$133,082)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<u>\$0</u>	<u>(\$312,320)</u>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2025-26</b>	<b>2026-27</b>
Personal Services	\$0	(\$302,202)
All Other	\$0	(\$605,699)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$0</u>	<u>(\$907,901)</u>

<b>AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF DEPARTMENT TOTALS</b>	<b>2025-26</b>	<b>2026-27</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$484,422)</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>(\$312,320)</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>(\$907,901)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u><b>\$0</b></u>	<u><b>(\$1,704,643)</b></u>

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF  
Natural Areas Conservation Fund N548**

Initiative: Provides baseline allocation to establish the account.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2025-26</b>	<b>2026-27</b>
All Other	\$0	\$500
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$0</u>	<u>\$500</u>

**Resource Management Services - Inland Fisheries and Wildlife 0534**

Initiative: Transfers one Public Service Manager II position, one Resource Management Coordinator position and 5 Biologist II positions from the Natural Areas Program within

the Department of Agriculture, Conservation and Forestry to the Resource Management Services - Inland Fisheries and Wildlife program within the Department of Inland Fisheries and Wildlife. This initiative also transfers All Other funds from the Natural Areas Program within the Department of Agriculture, Conservation and Forestry to the Resource Management Services - Inland Fisheries and Wildlife program within the Department of Inland Fisheries and Wildlife.

<b>GENERAL FUND</b>	<b>2025-26</b>	<b>2026-27</b>
Personal Services	\$0	\$418,180
All Other	\$0	\$66,242
<b>GENERAL FUND TOTAL</b>	<hr/>	<hr/>
	\$0	\$484,422
<b>FEDERAL EXPENDITURES FUND</b>	<b>2025-26</b>	<b>2026-27</b>
Personal Services	\$0	\$179,238
All Other	\$0	\$133,082
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<hr/>	<hr/>
	\$0	\$312,320
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2025-26</b>	<b>2026-27</b>
Personal Services	\$0	\$302,202
All Other	\$0	\$605,699
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<hr/>	<hr/>
	\$0	\$907,901
<b>INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF DEPARTMENT TOTALS</b>	<b>2025-26</b>	<b>2026-27</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$484,422</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>\$312,320</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$908,401</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<hr/>	<hr/>
	\$0	\$1,705,143
<b>SECTION TOTALS</b>	<b>2025-26</b>	<b>2026-27</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$0</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>\$0</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$500</b>
<b>SECTION TOTAL - ALL FUNDS</b>	<hr/>	<hr/>
	\$0	\$500