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Date: (Filing No. S-)

**INLAND FISHERIES AND WILDLIFE
MARINE RESOURCES**

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 298, L.D. 883, “An Act To Protect Endangered Species Whose Life Cycles Include Maine Land or Waters”

Amend the bill by striking out the title and substituting the following:

'An Act To Protect Endangered and Threatened Species Whose Life Cycles Include Maine Land or Waters'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 12 MRSA §6973, as enacted by PL 2003, c. 573, §1, is amended to read:

§6973. Designation of marine species as state endangered or state threatened

1. Commissioner's authority. The commissioner may recommend to the Legislature a marine species found in the State for designation as a state endangered or state threatened marine species ~~if that species is listed as an endangered or threatened species by the United States Secretary of the Interior, pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended under section 6975.~~

2. Modification to list. The commissioner may recommend to the Legislature that a marine species designated as a state endangered or state threatened species be removed from the list in section 6975 or recommend other changes to that list.

3. Public notice and hearings. Prior to recommending to the Legislature an addition, deletion or other change to the list of state endangered and state threatened marine species in section 6975, the commissioner shall provide for public notice and public hearings on that proposed recommendation in accordance with the provisions of Title 5, chapter 375, subchapter ~~2~~ 2-A.

4. Rulemaking. The commissioner by rule shall designate a marine species as a state endangered or state threatened marine species if that species:

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1 A. Is listed as an endangered or threatened species by the United States Secretary of
2 the Interior or Secretary of Commerce, pursuant to the United States Endangered
3 Species Act of 1973, as amended;

4 B. Uses waters of the State for any part of its life cycle; and

5 C. Is not listed in section 6975, section 12803 or rules adopted under section 12803,
6 subsection 6.

7 Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter
8 375, subchapter 2-A.

9 **Sec. 2. 12 MRSA §6974**, as enacted by PL 2003, c. 573, §1, is repealed.

10 **Sec. 3. 12 MRSA §6975, first ¶**, as enacted by PL 2003, c. 573, §1, is amended to
11 read:

12 ~~The list of~~ In addition to species designated by rule pursuant to section 6973, subsection
13 4, the state endangered or state threatened marine species by common name, scientific
14 name and status is are as follows:

15 **Sec. 4. 12 MRSA §12803**, as amended by PL 2017, c. 164, §23, is further amended
16 to read:

17 **§12803. Designation of state endangered and state threatened species**

18 **1. Standards.** The commissioner shall recommend to the Legislature a species to be
19 listed as state endangered or state threatened under subsection 3 whenever the
20 commissioner finds one of the following to exist:

21 A. The present or threatened destruction, modification or curtailment of its habitat or
22 range;

23 B. Overutilization for commercial, sporting, scientific, educational or other purposes;

24 C. Disease or predation;

25 D. Inadequacy of existing regulatory mechanisms; or

26 E. Other natural or manmade factors affecting its continued existence within the State.

27 **2. Commissioner's duties.** In recommending to the Legislature a species to be listed
28 as state endangered or state threatened under subsection 3, the commissioner shall:

29 A. Make use of the best scientific, commercial and other data available;

30 B. Consult, as appropriate, with federal agencies, other interested state agencies, other
31 states having a common interest in the species and interested persons and
32 organizations; and

33 C. Maintain a list of all species that the Legislature has designated to be state
34 endangered or state threatened, naming each species by both its scientific and common
35 name, if any, and specifying over what portion of its range each species so designated
36 is state endangered or state threatened.

37 **3. ~~Legislative authority List.~~** ~~The Legislature, as sole authority, shall designate a~~
38 ~~species as a state endangered or state threatened species.~~ The list of In addition to the
39 species designated by rule under subsection 6, the state endangered or state threatened
40 species by common name, scientific name and status is are as follows:

- 1 A. Least tern, *Sterna antillarum*, endangered;
- 2 B. Golden eagle, *Aquila chrysaetos*, endangered;
- 3 C. Piping plover, *Charadrius melodus*, endangered;
- 4 D. Sedge wren, *Cistothorus platensis*, endangered;
- 5 E. Grasshopper sparrow, *Ammodramus savannarum*, endangered;
- 6 F. Box turtle, *Terrapene carolina*, endangered;
- 7 G. Black racer, *Coluber constrictor*, endangered;
- 8 H. Roseate tern, *Sterna dougallii*, endangered;
- 9 I. Northern bog lemming, *Synaptomys borealis*, threatened;
- 10 J. Blanding's turtle, *Emydoidea blandingii*, endangered;
- 11 K. Black tern, *Chlidonias niger*, endangered;
- 12 L. American pipit, *Anthus rubescens* (breeding population only), endangered;
- 13 M. Peregrine falcon, *Falco peregrinus* (breeding population only), endangered;
- 14 N. Roaring Brook mayfly, *Epeorus frisoni*, threatened;
- 15 O. Ringed boghaunter, *Williamsonia lintneri*, threatened;
- 16 P. Clayton's copper, *Lycaena dorcas claytoni*, threatened;
- 17 Q. Edwards' hairstreak, *Satyrium edwardsii*, endangered;
- 18 R. Hessel's hairstreak, *Callophrys hesseli*, endangered;
- 19 S. Katahdin arctic, *Oenis polixenes katahdin*, endangered;
- 20 T. Spotted turtle, *Clemmys guttata*, threatened;
- 21 V. Razorbill, *Alca torda*, threatened;
- 22 W. Atlantic puffin, *Fratercula arctica*, threatened;
- 23 X. Harlequin duck, *Histrionicus histrionicus*, threatened;
- 24 Y. Arctic tern, *Sterna paradisaea*, threatened;
- 25 Z. Upland sandpiper, *Bartramia longicauda*, threatened;
- 26 AA. Swamp darter, *Etheostoma fusiforme*, threatened;
- 27 BB. Tidewater mucket, *Leptodea ochracea*, threatened;
- 28 CC. Yellow lampmussel, *Lampsilis cariosa*, threatened;
- 29 DD. Tomah mayfly, *Siphonisca aerodromia*, threatened;
- 30 FF. Twilight moth, *Lycia rachelae*, threatened;
- 31 GG. Pine barrens zanclognatha, *Zanclognatha martha*, threatened;
- 32 HH. Redfin pickerel, *Esox americanus americanus*, endangered;
- 33 II. Juniper hairstreak, *Callophrys gryneus*, endangered;
- 34 JJ. Rapids clubtail, *Gomphus quadricolor*, endangered;

- 1 KK. New England cottontail, *Sylvilagus transitionalis*, endangered;
- 2 LL. Black-crowned night heron, *Nycticorax nycticorax*, endangered;
- 3 MM. Common gallinule, *Gallinula galeata*, threatened;
- 4 NN. Great cormorant, *Phalacrocorax carbo* (breeding population only), threatened;
- 5 OO. Short-eared owl, *Asio flammeus* (breeding population only), threatened;
- 6 PP. Purple lesser fritillary, *Boloria chariclea grandis*, threatened;
- 7 QQ. Sleepy duskywing, *Erynnis brizo*, threatened;
- 8 RR. Boreal snaketail, *Ophiogomphus colubrinus*, threatened;
- 9 SS. Brook floater, *Alasmidonta varicosa*, threatened;
- 10 TT. Barrow's goldeneye, *Bucephala islandica*, threatened;
- 11 UU. Least bittern, *Ixobrychus exilis*, endangered;
- 12 VV. Cobblestone tiger beetle, *Cicindela marginipennis*, endangered;
- 13 WW. Frigga fritillary, *Boloria frigga*, endangered;
- 14 XX. Little brown bat, *Myotis lucifugus*, endangered;
- 15 YY. Northern long-eared bat, *Myotis septentrionalis*, endangered;
- 16 ZZ. Eastern small-footed bat, *Myotis leibii*, threatened; and
- 17 AAA. Six-whorl vertigo, *Vertigo morsei*, endangered.

18 **4. Process for recommendation; notice and hearings.** Prior to recommending to the
19 Legislature an addition, deletion or other change to the state endangered and state
20 threatened species listed in subsection 3, the commissioner shall provide for public notice
21 and public hearings on that proposed recommendation in accordance with the provisions
22 of Title 5, chapter 375, subchapter 2-A.

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

26 **6. Rulemaking.** The commissioner by rule shall designate a species as a state
27 endangered or state threatened species if that species:

28 A. Is listed as an endangered or threatened species by the United States Secretary of
29 the Interior or Secretary of Commerce, pursuant to the United States Endangered
30 Species Act of 1973, as amended;

31 B. Uses the land or waters of the State for any part of its life cycle; and

32 C. Is not listed in subsection 3, section 6975 or rules adopted under section 6973,
33 subsection 4.

34 Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter
35 375, subchapter 2-A.'

36 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
37 number to read consecutively.

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SUMMARY

This amendment replaces the bill and does the following:

1. Requires the Commissioner of Marine Resources to designate a marine species as a state endangered or state threatened species if the species is listed as an endangered or threatened species under the United States Endangered Species Act of 1973, the species uses the waters of the State for any part of its life cycle and the species is not already so designated in state law or rule;
2. Requires the Commissioner of Inland Fisheries and Wildlife to designate a species as a state endangered or state threatened species if the species is listed as an endangered or threatened species under the United States Endangered Species Act of 1973, the species uses the land or waters of the State for any part of its life cycle and the species is not already so designated in state law or rule;
3. Removes provisions of law that provide that the Legislature is the sole authority to designate species as state endangered or state threatened; and
4. Authorizes the Commissioner of Marine Resources and the Commissioner of Inland Fisheries and Wildlife to recommend additional species to the Legislature for listing as endangered or threatened species, as in current law.

FISCAL NOTE REQUIRED

(See attached)