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Date: (Filing No. S- )

**ENVIRONMENT AND NATURAL RESOURCES**

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

**STATE OF MAINE  
SENATE  
129TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 601, L.D. 1777, Bill, “An Act To Add Rivers, Streams and Brooks to the Department of Environmental Protection's Compensation Fee Program”

Amend the bill by inserting after the enacting clause and before section 1 the following:

**'Sec. 1. 38 MRSA §480-Z, 4th ¶**, as amended by PL 2007, c. 527, §1, is further amended to read:

A project undertaken pursuant to this section must be approved by the department. The department shall base its approval of a wetlands compensation project on the wetland management priorities identified by the department for the watershed or biophysical region in which the project is located. The department shall base its approval of a compensation project concerning an area listed in subsection 7, paragraph C, D ~~or~~ E or F on the management priorities identified by the department for the type of habitat. The department may not approve a compensation project for unavoidable losses to an area until the applicant has complied with all other applicable provisions of this article and all applicable rules adopted by the department pursuant to this article. For purposes of this section, "biophysical region" means a region with shared characteristics of climate, geology, soils and natural vegetation.'

Amend the bill by striking out all of section 1 and inserting the following:

**'Sec. 1. 38 MRSA §480-Z, sub-§3**, as amended by PL 2011, c. 655, Pt. JJ, §31 and affected by §41 and amended by c. 657, Pt. W, §5, is further amended to read:

**3. Compensation fee program.** The department may develop a ~~wetlands~~ compensation fee program for the areas listed in subsection 7, ~~paragraphs A and B~~ in consultation with ~~the Department of Agriculture, Conservation and Forestry, the United States Army Corps of Engineers and state and federal resource agencies, including, but not limited to, the Department of Agriculture, Conservation and Forestry, the Department of Inland Fisheries and Wildlife, the United States Army Corps of Engineers, the United States Fish and Wildlife Service and the United States Environmental Protection Agency.~~

**COMMITTEE AMENDMENT**

1 ~~The department may develop a compensation fee program for the areas listed in~~  
2 ~~subsection 7, paragraphs C, D and E in consultation with the Department of Inland~~  
3 ~~Fisheries and Wildlife.~~

4 A. The program may include the following:

5 (1) Identification of wetland management priorities on a watershed or  
6 biophysical region basis;

7 (1-A) Identification of management priorities for the areas listed in subsection 7,  
8 paragraphs C, D ~~and~~ E and F;

9 (2) Identification of the types of losses eligible for compensation under this  
10 subsection;

11 (3) Standards for compensation fee projects;

12 (4) Calculation of compensation fees based on the functions and values of the  
13 affected areas and the cost of compensation, taking into account the potential  
14 higher cost of compensation when a project is implemented at a later date; and

15 (5) Methods to evaluate the long-term effectiveness of compensation fee projects  
16 implemented under this subsection in meeting the management priorities  
17 identified pursuant to subparagraphs (1) and (1-A).

18 B. Any compensation fee may be paid into a compensation fund established by the  
19 department as provided in subparagraph (1) or to an organization authorized by the  
20 department as provided in subparagraph (2). A compensation project funded in  
21 whole or in part from compensation fees must be approved by the department.

22 (1) The department may establish compensation funds for the purpose of  
23 receiving compensation fees, grants and other related income. A compensation  
24 fund must be a fund dedicated to payment of costs and related expenses of  
25 restoration, enhancement, preservation and creation projects. The department  
26 may make payments from the fund consistent with the purpose of the fund.  
27 Income received under this subsection must be deposited with the State Treasurer  
28 to the credit of the compensation fund and may be invested as provided by law.  
29 Interest on these investments must be credited to the compensation fund.

30 (2) The department may enter into an enforceable, written agreement with a  
31 public, quasi-public or municipal organization or a private, nonprofit  
32 organization for the protection of natural areas. Such an organization must  
33 demonstrate the ability to receive compensation fees, administer a compensation  
34 fund and ensure that compensation projects are implemented consistent with  
35 local, regional or state management priorities. If compensation fees are provided  
36 to an authorized organization, the organization shall maintain records of  
37 expenditures and provide an annual summary report as requested by the  
38 department. If the authorized agency is a state agency other than the department,  
39 the agency shall establish a fund meeting the requirements specified in  
40 subparagraph (1). If the organization does not perform in accordance with this  
41 subsection or with the requirements of the written agreement, the department may

