

# MAINE STATE LEGISLATURE

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MAJORITY  
AGRICULTURE, CONSERVATION AND FORESTRY

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
117TH LEGISLATURE  
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1390, L.D. 1892, Bill, "An Act to Implement the Compact for Maine's Forests"

Amend the bill in section 2 by striking out all of subsection 2 and inserting in its place the following:

2. **Natural resource educator.** The director shall employ a natural resource educator to develop and coordinate natural resource education, workshops and training opportunities for the general public, school-age children, forest landowners, forest products harvesters and forest managers. By February 15, 1997, the director shall convene a natural resource education advisory committee to include, but not be limited to, members that represent forest landowners, forest products harvesters, forest managers and environmental education organizations. The committee shall serve in an advisory capacity to the natural resource educator. Specifically, this person shall:

A. Work with the Department of Education and organizations to integrate forestry and forest science programs into the science curricula in public and private schools; and

B. Establish a program for continuing education courses in timber harvesting equipment operation, safety and basic forest management skills; and

C. Work in partnership with the private sector and nongovernmental organizations, including, but not limited to, associations whose members own small woodlands in the State, to develop new natural resource education initiatives for the general public. By September 1, 1997, the natural resource educator shall submit to the director and to the

2 natural resource education advisory committee a plan  
3 including a description of those initiatives and any  
4 possible financial resources that have been identified or  
5 pledged.'

6 Further amend the bill in section 3 in that part designated  
7 "~~§8866.~~" by striking out all of the first sentence (page 1, lines  
8 45 to 49 in L.D.) and inserting in its place the following: 'The  
9 Legislature finds that forest management, when practiced in  
10 accordance with environmentally sound silvicultural principles,  
11 constitutes a beneficial and desirable use of the State's forest  
12 resource and makes vital contributions to the economy,  
13 environment and aesthetic features of the State.'

14 Further amend the bill in section 5 in that part designated  
15 "~~§8867-A.~~" by striking out all of the first paragraph and  
16 inserting in its place the following: 'No later than May 1,  
17 1997, the Commissioner of Conservation shall provisionally adopt  
18 rules in accordance with Title 5, chapter 375 to implement this  
19 subchapter. Rules adopted pursuant to this subchapter are major  
20 substantive rules as defined in Title 5, chapter 375, subchapter  
21 II-A.'

22 Further amend the bill in section 7 by striking out all of  
23 that part designated "~~§8868-A.~~" and inserting in its place the  
24 following:

25 '§8868-A. Definitions

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

28 1. Acceptable growing stock. "Acceptable growing stock"  
29 means live trees of commercially valuable species classified as  
30 sawtimber or pole-timber, that are not culls, or saplings or  
31 seedlings capable of developing into trees suitable for producing  
32 merchantable products.

33 2. Affiliated interest. "Affiliated interest" means:

34 A. Any corporate or other legal entity in which a landowner  
35 possesses a controlling ownership interest; or

36 B. Any corporate or other legal entity that possesses a  
37 controlling ownership interest in a landowner.

38 The commissioner by rule shall define what constitutes a  
39 controlling ownership interest. Rules adopted by the  
40 commissioner pursuant to this subsection are major substantive  
41 rules.

2           3. Certified wildlife professional. "Certified wildlife  
3 professional" means a person who meets the education and  
4 experience requirements of a certified wildlife biologist as  
5 defined by a professional organization that certifies wildlife  
6 professionals.

8           4. Clear-cut. "Clear-cut" means any timber harvesting on a  
9 forested site greater than 5 acres in size that results in a  
10 residual stand that does not meet either of the following  
11 conditions:

12           A. The average residual basal area of acceptable growing  
13 stock trees 4.5 inches and over in diameter measured at 4  
14 1/2 feet above the ground is 45 square feet per acre or  
15 more; or

16           B. The site has a well-distributed stand of acceptable  
17 growing stock trees of at least 5 feet in height that meets  
18 the regeneration standards defined under section 8869-A,  
19 subsection 7.

22           5. Forest lands owned by a landowner. "Forest lands owned  
23 by a landowner" means any forest land in which a landowner or any  
24 affiliated interest possesses a dominant ownership interest with  
25 respect to timber harvesting. The commissioner by rule shall  
26 define what indicia of ownership constitutes a dominant ownership  
27 interest. Rules adopted by the commissioner pursuant to this  
28 subsection are major substantive rules.

30           6. Forest management plan. "Forest management plan" means  
31 a site-specific document signed by a licensed professional  
32 forester outlining proposed activities to ensure compliance with  
33 performance standards and regeneration requirements established  
34 pursuant to this subchapter.

36           7. Landowner. "Landowner" means a person, firm,  
37 association, organization, partnership, cotenant, joint tenant,  
38 trust, company, corporation, state agency or other legal entity  
39 or entities that possess a dominant ownership interest in land  
40 with respect to timber harvesting. The commissioner by rule  
41 shall define what indicia of ownership constitutes a dominant  
42 ownership interest. Rules adopted by the commissioner pursuant  
43 to this subsection are major substantive rules.

46           8. Licensed professional forester. "Licensed professional  
47 forester" means a person licensed pursuant to Title 32, chapter  
48 75.

2 9. Parcel. "Parcel" means a contiguous tract or plot of  
forest land owned by a landowner. Multiple contiguous tracts,  
4 plots or parcels of forest land owned by the same landowner are  
considered a single parcel for the purposes of this subchapter.

6 10. Timber harvesting. "Timber harvesting" means the  
cutting or removal of at least 50 cords of timber for the primary  
8 purpose of selling or processing forest products.'

10 Further amend the bill in section 9 in that part designated  
"§8869-A." in the first line (page 3, line 48 in L.D.) by  
12 striking out the following: "Forest harvest" and inserting in  
its place the following: 'Timber harvesting'

14 Further amend the bill in section 9 in that part designated  
16 "§8869-A." in the first paragraph by striking out the first line  
(page 3, line 50 in L.D.) and inserting in its place the  
18 following: 'Timber harvesting is regulated in this subchapter as  
follows.'

20 Further amend the bill in section 9 in that part designated  
22 "§8869-A." in subsection 2 in the 3rd line (page 4, line 30 in  
L.D.) by inserting after the following: "Act" the following:  
24 'Title 5, chapter 375, subchapters IV and V'

26 Further amend the bill in section 9 in that part designated  
28 "§8869-A." in subsection 2 in paragraph A by striking out all of  
subparagraph (4) and inserting in its place the following:

30 '(4) Harvesting of an existing plantation.'

32 Further amend the bill in section 9 in that part designated  
34 "§8869-A." in subsection 2 in paragraph B in subparagraph 2 in  
division (c) in the last line (page 5, line 36 in L.D.) by  
striking out the following: "and"

36 Further amend the bill in section 9 in that part designated  
38 "§8869-A." in subsection 2 in paragraph B in subparagraph 2 in  
division (d) in the last line (page 5, line 40 in L.D.) by  
40 inserting after the following: "permit;" the following: 'and'

42 Further amend the bill in section 9 in that part designated  
44 "§8869-A." in subsection 2 in paragraph B in subparagraph 2 by  
inserting after division (d) the following:

46 '(e) Other information determined by rule to be  
48 necessary.'

50 Further amend the bill in section 9 in that part designated  
"§8869-A." in subsection 2 in paragraph B in subparagraph (4) in  
the 3rd and 4th lines (page 6, lines 14 and 15 in L.D.) by

AdS.

COMMITTEE AMENDMENT "A" to H.P. 1390, L.D. 1892

2 striking out the following: "what conditions could cure the  
3 defects" and inserting in its place the following: 'under what  
4 conditions a permit could be approved'

6 Further amend the bill in section 9 in that part designated  
7 "~~§8869-A.~~" in subsection 3 in the 3rd line (page 6, line 29 in  
8 L.D.) by striking out the following: "the same" and inserting in  
9 its place the following: 'a'

10 Further amend the bill in section 9 in that part designated  
11 "~~§8869-A.~~" by striking out all of subsection 4 and inserting in  
12 its place the following:

14 '4. Maximum area clear-cut limit; forest land ownerships  
15 less than 100,000 acres. When forest lands owned by a landowner  
16 total less than 100,000 acres statewide, the maximum of that land  
17 area to be clear-cut on a parcel in any year is limited to the  
18 greater of either 100 acres or 10% of the land area of any  
19 parcel. The total land area meeting the definition of a  
20 clear-cut under section 8868-A, subsection 4 must be calculated  
21 each year to ensure that clear-cuts do not occupy at any point in  
22 time more than 100 acres or 10% of the parcel, whichever is  
23 greater.'

24 Further amend the bill in section 9 in that part designated  
25 "~~§8869-A.~~" by striking out all of subsection 6 and inserting in  
26 its place the following:

28 '6. Clear-cut separation zones. For parcels of land over  
29 100 acres, clear-cut harvest areas must be separated by a defined  
30 area equal to the area contained within the perimeter of the  
31 clear-cut. Each defined area must be identified with a specific  
32 clear-cut area. For parcels of land 100 acres or less, a  
33 clear-cut must be separated from any other clear-cut by at least  
34 250 feet.'

36 Further amend the bill in section 9 in that part designated  
37 "~~§8869-A.~~" in subsection 8 in the next to last line (page 7, line  
38 42 in L.D.) by inserting after the following: "responsible for"  
39 the following: 'the cost of'

42 Further amend the bill in section 9 in that part designated  
43 "~~§8869-A.~~" in subsection 10 by striking out all of the first 2  
44 paragraphs and inserting in their place the following:

46 '10. Relationship to municipal ordinances. Except as  
47 provided in this subsection, this subchapter may not be construed  
48 to preempt or otherwise limit the existing authority of  
49 municipalities to regulate timber harvesting. Municipalities  
50 regulating timber harvesting shall adopt definitions for forestry

2 terms used in their ordinances that are consistent with  
3 definitions in section 8868-A and with forestry terms adopted by  
4 the Commissioner of Conservation pursuant to this subchapter.  
5 Municipal timber harvesting ordinances adopted before September  
6 1, 1990 and not amended subsequently must meet this standard of  
7 definitional compliance no later than January 1, 1999.

8 A municipality may not adopt an ordinance that is less stringent  
9 than the minimum standards established in this section and in the  
10 rules adopted to implement this section. A municipality may not  
11 adopt or amend an ordinance that regulates timber harvesting  
12 unless the process set out in this subsection is followed in the  
13 development and review of the ordinance.'

14  
15 Further amend the bill in section 9 in that part designated  
16 "~~§8869-A.~~" in subsection 10 by striking out all of paragraph G  
17 (page 10, lines 12 to 24 in L.D.) and inserting in its place the  
18 following:

19 'G. All direct costs incurred by a municipality associated  
20 with landowner notification requirements and other required  
21 public notice must be paid to the municipality in accordance  
22 with a distribution schedule established under Title 30-A,  
23 section 5685, subsection 5. All direct costs incurred by a  
24 municipality associated with the amendment of ordinances  
25 adopted before September 1, 1990, and not subsequently  
26 amended, in order to comply with this section must be paid  
27 to the municipality in accordance with a distribution  
28 schedule established under Title 30-A, section 5685,  
29 subsection 5.'

30  
31 Further amend the bill in section 9 in that part designated  
32 "~~§8869-A.~~" by striking out all of subsection 12 and inserting in  
33 its place the following:

34  
35 '12. Right of enforcement. Department of Conservation  
36 employees designated by the commissioner and any state, county or  
37 municipal law enforcement officer, including, but not limited to,  
38 Bureau of Forestry forest rangers and field foresters and Inland  
39 Fisheries and Wildlife wardens, are authorized to enforce this  
40 subchapter and implementing rules. The Director of the Bureau of  
41 Forestry is authorized to issue a stop-work order for up to 5  
42 working days to a landowner, contractor or any other person  
43 conducting timber harvesting when there is probable cause to  
44 believe that a violation of this subchapter or implementing rules  
45 has occurred. Department employees designated by the  
46 commissioner are authorized to conduct inspections and to enforce  
47 this subchapter and implementing rules under the Maine Rules of  
48 Civil Procedure, Rules 80E and 80H.'

50

COMMITTEE AMENDMENT "A" to H.P. 1390, L.D. 1892

Further amend the bill in section 9 in that part designated "~~§8869-A.~~" in subsection 15 by striking out all of the blocked paragraph (page 11, lines 29 to 34 in L.D.).

Further amend the bill in section 9 in that part designated "~~§8869-A.~~" in subsection 16 in the 9th line (page 11, line 44 in L.D.) by striking out the following: "material" and inserting in its place the following: 'natural'

Further amend the bill in section 9 in that part designated "~~§8869-A.~~" in subsection 16 in the 3rd line from the end (page 12, line 17 in L.D.) by striking out the following: "would cure the defects" and inserting in its place the following: 'would allow an exemption to be granted'

Further amend the bill in section 9 in that part designated "~~§8869-A.~~" in subsection 16 in the last line (page 12, line 19 in L.D.) by striking out the following: "11" and inserting in its place the following: '18'

Further amend the bill in section 9 in that part designated "~~§8869-A.~~" in subsection 17 in the 2nd line (page 12, line 22 in L.D.) by striking out the following: "the same" and inserting in its place the following: 'a'

Further amend the bill in section 9 in that part designated "~~§8869-A.~~" in subsection 17 in the last 2 lines (page 12, lines 26 and 27 in L.D.) by striking out the following: "the separation zone and reporting rules to be adopted under the authority of this section" and inserting in its place the following: 'all other applicable standards'

Further amend the bill in section 9 in that part designated "~~§8869-A.~~" by inserting after subsection 18 the following:

'19. Penalty. A person who violates any requirement of this section, the condition or terms of any permit issued by the Commissioner of Conservation under this section or a provision of any rule or regulation adopted under this section commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged. Each day of a violation is considered a separate offense.'

Further amend the bill by striking out all of section 10 and inserting in its place the following:

'Sec. 10. 12 MRSA c. 805, sub-c. III-B is enacted to read:

SUBCHAPTER III-B



VOLUNTARY SUSTAINABLE FOREST MANAGEMENT AUDITS

§8870-A. Sustainable Forest Management Audit Program

1. Findings. The Legislature finds that:

A. The forests of this State are critical for the economic and ecological health and quality of life in this State;

B. The forests of this State should be managed in a manner that ensures their sustainable ecological and economic health;

C. Landowners must be encouraged to manage their forests in a sustainable manner to meet the needs of current and future generations; and

D. Regulatory systems alone are insufficient to ensure sustainable forest management. Voluntary efforts by owners of forest lands that foster individual creativity and flexibility in meeting sustainability goals are encouraged.

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

A. "Benchmark" means a measurable forest management goal or guideline, but is not a regulatory standard.

B. "Bureau" means the Bureau of Forestry.

C. "Commissioner" means the Commissioner of Conservation.

D. "Director" means the Director of the Bureau of Forestry.

E. "Landowner" means an owner of forest lands or an authorized representative or agent of an owner of forest lands.

3. Program established; objectives. The Sustainable Forest Management Audit Program, referred to in this subchapter as the "program," is established within the Department of Conservation to encourage continuous improvement in forest management and to optimize both the long-term ecological and economic health of forests in this State. Two objectives guide the program:

A. The maintenance and enhancement of timber sustainability and economic viability of forest management; and

B. The maintenance and enhancement of the biodiversity of

2 forests in this State, including viable populations of  
3 existing native species and viable representatives of  
4 existing native forest communities, well distributed across  
5 their native ranges.

6 **§8870-B. Eligibility**

8 Prior to January 1, 2002, any landowner who owns 100,000 or  
9 more acres of forest lands in the State is eligible to  
10 participate in the program. A landowner who owns less than  
11 100,000 acres of forest lands in the State is eligible to  
12 participate in the program by mutual agreement of the director  
13 and the landowner. After January 1, 2002, any landowner is  
14 eligible to participate. Participation by a landowner in the  
15 program is voluntary.

16 **§8870-C. Audit program administration**

18 **1. Board established; membership; termination.** The  
19 Sustainable Forest Management Audit Board, referred to in this  
20 subchapter as the "board," is established within the Department  
21 of Conservation to develop the program and oversee its  
22 implementation by the bureau. The bureau shall provide staff  
23 assistance to the board within existing budgeted resources. The  
24 board has no regulatory authority. Meetings of the board are  
25 public meetings.

26 The board consists of 7 members who must be appointed by the  
27 Governor no later than January 1, 1997. The members serve until  
28 termination of the board in 2002. Prior to appointing members of  
29 the board, the Governor shall solicit prospective appointees from  
30 interested persons and the public and must meet and consult with  
31 the President of the Senate and the Speaker of the House on  
32 prospective appointees.

33 The board must be composed of a balance of members who have  
34 expertise in forest management, timber harvesting, wildlife, and  
35 conservation and ecological principles, including landowners who  
36 are eligible to participate in the program and members of the  
37 general public.

38 A vacancy on the board must be filled as provided for initial  
39 appointees in this subsection within 120 days of the vacancy.  
40 Board members are not entitled to compensation or reimbursement  
41 of expenses.

42 This subsection is repealed 90 days after adjournment of the  
43 Second Regular Session of the 120th Legislature.

2 2. Decision-making process. The board shall reach its  
3 decisions by the unanimous approval of its members. The board  
4 may convene working groups to assist it in areas requiring  
5 particular expertise or perspectives. The board shall provide  
6 ample opportunities for public input and discussion.

7 This subsection is repealed 90 days after adjournment of the  
8 Second Regular Session of the 120th Legislature.

10 3. Duties of the board. The board shall:

12 A. By January 1, 1999, through a public process and using  
13 the best scientific information and expertise available to  
14 it:

16 (1) Establish specific, credible and practical  
17 benchmarks to achieve the objectives set forth in  
18 section 8870-A. The benchmarks must be developed in  
19 the categories set forth in section 8870-D. In  
20 establishing the benchmarks, the board must consider  
21 and incorporate, as appropriate, the work of past  
22 collaborative forest policy efforts, including the  
23 findings and recommendations set forth in the final  
24 report of the Maine Council on Sustainable Forest  
25 Management. In addition, the benchmarks established  
26 must be practical yet sufficiently flexible to  
27 encourage participation in the program by landowners  
28 representing a range of ownership sizes and must ensure  
29 continuous improvement of the audit process;

31 (2) Establish the methodology by which the forest  
32 management programs of landowners participating in the  
33 program will be audited;

34 (3) Establish a process for certifying independent 3rd  
35 parties to perform program audits. Once established,  
36 the certification process must be administered by the  
37 bureau;

38 (4) Recommend to the commissioner incentives to  
39 encourage participation in the program by landowners.  
40 The incentives may include, but are not limited to,  
41 marketing opportunities, tax treatment and regulatory  
42 flexibility; and

43 (5) Recommend to the commissioner disincentives for  
44 failure to meet program benchmarks; and

45 B. By January 1, 2000, through a public process, review and  
46 recommend to the commissioner measures for providing  
47   
48   
49   
50

2 regulatory flexibility and exemptions, in whole or in part,  
3 for participants in the program. The board may consider  
4 exemptions from provisions, including, but not limited to,  
5 the following:

6 (1) Section 8869-A, subsection 2, paragraph B relating  
7 to permit-by-rule requirements;

8 (2) Section 8869-A, subsections 3 and 4 relating to  
10 the clear-cut area limit;

12 (3) Section 8869-A, subsection 5 relating to clear-cut  
14 size limits; and

16 (4) Section 8869-A, subsection 6 relating to clear-cut  
17 separation zones.

18 **4. Duties of the commissioner. The commissioner shall:**

20 A. No later than January 1, 1999, after consultation with  
21 the board, develop and maintain a register of alternative  
22 accredited 3rd-party audit or certification programs that,  
23 in the commissioner's judgment, employ benchmarks and  
24 criteria that are substantially equivalent to those employed  
25 under this section and shall develop a process to add new  
26 alternative accredited 3rd-party audit or certification  
27 programs after consultation with the board. In developing  
28 the register, the commissioner's criteria for registering  
29 programs must be sufficiently flexible to allow registration  
30 of existing accredited 3rd-party audit or certification  
31 programs that certify for sustainable forest practices,  
32 ecological health, socio-economic health and marketing of  
33 forest products in order to ensure continuity for landowners  
34 using such programs and minimize duplication of effort.

36 Notwithstanding any other provisions of this paragraph, a  
37 landowner is considered to be in compliance with the  
38 provisions of the program if the landowner submits to the  
39 commissioner documentation, as the commissioner may require,  
40 within 6 months of the effective date of this section, of  
41 the successful completion of an audit conducted prior to  
42 January 1, 1996 by an organization competent to conduct  
43 sustainable forestry audits that consider, at a minimum,  
44 sustainable forest practices, ecological health,  
45 socio-economic health and marketing of forest products.  
46 Landowners who have submitted documentation of such  
47 certification must continue to be considered in compliance  
48 with the alternative audit program so long as the documented  
certification is maintained and so long as the

2           organization's certification program remains substantially  
3           unchanged;

4           B. Adopt rules establishing a procedure for a landowner to  
5           demonstrate compliance with the provisions of the program  
6           through submission of audit certification by an organization  
7           on the register. At the time of the adoption of rules, the  
8           commissioner shall review any organization deemed to be in  
9           compliance with the alternative audit program and shall  
10           authorize the continuation of this recognized status when  
11           the commissioner determines that the organization's audit  
12           program continues to employ benchmarks and criteria that are  
13           substantially equivalent to those employed under this  
14           section. In addition, the commissioner may adopt rules to  
15           certify independent 3rd-party auditors to carry out forest  
16           management audits conducted pursuant to this subchapter,  
17           following establishment of benchmarks and audit methods by  
18           the board. Pursuant to Title 5, chapter 375, subchapter  
19           II-A, the rules are major substantive rules; and

20           C. Assume any remaining duties of the board upon the  
21           board's termination in 2002.

22           5. Responsibility for program administration. The bureau  
23           shall administer the program, including benchmarks, methodologies  
24           and processes developed by the board.

25           6. Auditing program. The following govern the auditing  
26           program.

27           A. A landowner who participates in the program must first  
28           register with the director and then may select an auditor  
29           certified by the bureau who does not have a direct and  
30           substantial financial or other relationship with that  
31           landowner that may preclude the auditor's ability to conduct  
32           an independent, objective audit.

33           B. Upon selection of an auditor, a participating landowner  
34           shall submit to the bureau a timetable for conducting an  
35           audit of the management of the landowner's forest lands in  
36           the State and identification of the auditor selected. The  
37           auditor and participating landowner shall use their best  
38           efforts to ensure that the audit is conducted within 18  
39           months after submission of the timetable or after  
40           establishment of benchmarks and audit methodology by the  
41           board, whichever is later. For timetables submitted by July  
42           1, 1999, every effort must be made to complete the initial  
43           audits by December 31, 2000. The audit must be conducted in  
44           accordance with the benchmarks and criteria established by  
45           the board.

2           C. Upon completion of an audit, the auditor shall submit a  
4           report to the bureau and the board that indicates whether  
          the landowner passed or failed the audit, along with a brief  
          statement describing the basis for that determination.

6           D. An audit of the management of forest lands of a  
8           participating landowner must be conducted at least every 5  
10          years in order for the landowner to continue to participate  
          in the program.

12          7. Auditor's report; confidentiality. The report of the  
14          auditor that indicates whether a landowner passed or failed the  
          audit and the statement describing the basis for that  
16          determination are public records. For purposes of Title 1,  
          section 402, an auditor certified by the bureau is not an agency  
18          or public official of the State and materials held by the auditor  
          in the course of an audit are not public records by virtue of  
20          being in the possession or custody of the auditor.

22          **§8870-D. Audit program benchmarks**

24          The board shall develop specific, credible and practical  
          benchmarks in the following areas.

26          1. Sustained yield. Benchmarks must include measures to  
28          ensure sustained yield. These measures may include growth,  
          harvest levels, rotation length, inventory levels, mix of species  
30          and landowners' forest management objectives, if these objectives  
          are compatible with the objectives of the program. The  
32          benchmarks must include appropriate flexibility for year-to-year  
          variation.

34          2. Management according to silvicultural guidelines. The  
36          benchmarks must include appropriate use of established  
          silvicultural guidelines, including standards to achieve  
38          improvement of the overall quality of the timber resource as a  
          foundation for more value-added opportunities.

40          3. Landscape goals. In the area of landscape goals, the  
42          benchmarks must include a requirement to gather and analyze data  
          and to develop and implement a plan for distribution of age  
44          classes, species, habitats and structures to include mature and 2  
          or more layered stands, over a landowner's total statewide land  
46          area ownership. The benchmarks must include a definition of and  
          benchmarks for "naturalistic forest management" to be applied on  
48          landscapes of high ecological, recreational or scenic value.  
          Benchmarks must reflect the limitations and opportunities  
50          inherent in existing forest conditions and may need to achieve a  
          desired result over a period of time.

2           4. Plantations. The benchmarks must include measures to  
4           ensure the appropriate establishment and distribution of  
          plantations.

6           5. Visual impacts. In the area of visual impacts, the  
8           benchmarks must include actions at both the landing and landscape  
          levels to minimize the potential adverse impacts of forest  
10          management within a landowner's total statewide land area  
          ownership, including impacts on viewsheds with significant public  
12          use.

14          6. Wildlife and fisheries habitat. The benchmarks must  
          include forest management that promotes wildlife and fisheries  
16          habitat diversity and conserves viable plant and animal  
          populations.

18          7. Fragile or rare ecological sites. The benchmarks must  
20          include screening for and protection of fragile or rare  
          ecological sites.

22          8. Insecticides and herbicides. The benchmarks must assure  
24          the prudent use of forest insecticides and herbicides and use  
          integrated pest management techniques to minimize the need for  
26          insecticide and herbicide use.

28          9. Soil productivity and water quality. The benchmarks  
          must include the protection of soil productivity and water  
30          quality.

32          The board may develop other benchmarks that it identifies as  
          necessary to achieve the purposes of this subchapter.

34          §8870-E. Annual report

36          The director, after consultation with the board, shall  
38          publish a report annually on the condition of the forests of the  
          State and on landowner performance within the program no later  
40          than December 31st of each year. The bureau shall analyze  
          available United States Forestry Service inventory data to  
42          establish a baseline and trends in the sustainability and  
          structure of the forest. A copy of the report must be submitted  
44          to the joint standing committee of the Legislature having  
          jurisdiction over forestry matters.'

46          Further amend the bill in section 11 in the last line (page  
48          19, line 11 in L.D.) by striking out the following: "8669-A" and  
          inserting in its place the following: '8869-A'

Further amend the bill by striking out all of section 14 and inserting in its place the following:

**Sec. 14. Ecological forest reserves.** The Legislature endorses the Bureau of Parks and Lands' designation of ecological forest reserves on state-owned land to protect viable representatives of the State's natural community types and to provide a credible reference point for the scientific evaluation of potential ecological issues on commercially managed forest lands.

1. The Legislature endorses the Bureau of Parks and Lands' integrated resource management policies for such reserves, including to:

A. Serve as reference points in studying the impact of forest management on the forest environment;

B. Provide for a wide range of forest conditions;

C. Preserve natural areas;

D. Preserve old growth;

E. Establish and maintain biological diversity;

F. Sustain the health and vitality of the natural environment for the State's many species of wildlife; and

G. Establish and maintain a broad array of habitat conditions for all indigenous species of wildlife, existing forest types and other plant associations.

2. The Legislature therefore directs that:

A. The Land and Water Resources Council, with support from the Department of Conservation and the Department of Inland Fisheries and Wildlife, shall determine which public and private nonprofit conservation lands have potential to meet the objectives of ecological forest reserves as described in subsection 1. The council shall also determine which of these lands are managed consistent with those objectives of ecological forest reserves and provide this information to the Department of Conservation by May 1, 1997. Using this information, the Department of Conservation shall provide an interim report to the committee of jurisdiction by June 1, 1997. In this report, the department shall identify ecological forest community types that exist on public lands managed by the Bureau of Parks and Lands that are not adequately represented by land managed on the effective date



2 of this Act by public and private nonprofit conservation  
entities;

4 B. After soliciting public comment through public meetings,  
the Bureau of Parks and Lands may establish ecological  
6 forest reserves totaling between 8,000 and 10,000 acres on  
public lands that are primarily available for timber  
8 harvesting. These reserves must complement those lands  
already identified as being managed consistent with the  
10 objectives for ecological forest reserves. Timber  
harvesting is prohibited on the ecological forest reserves.  
12 Traditional recreation activities, including, but not  
limited to, hunting, trapping and fishing, must be allowed.  
14 It is the intent of the Legislature that reserves  
established in accordance with this paragraph be established  
16 by October 1997; and

18 C. The Land and Water Resources Council, with support from  
the Department of Conservation and the Department of Inland  
20 Fisheries and Wildlife, shall assess the need for additional  
ecological forest reserves, if any, and the extent to which  
22 these can be accommodated on existing public lands. The  
council shall develop scientifically justified criteria for  
24 the identification and ranking of any ecological types that  
may merit inclusion in a reserve. The council shall also  
26 consider the fiscal impact of any additional reserves on the  
operations of the landowning public agencies. By January 1,  
28 1998, the council shall submit its findings to the Governor  
and the Legislature. No additional public lands may be  
30 designated by the Bureau of Parks and Lands as ecological  
forest reserves prior to January 1, 1998.'

32 Further amend the bill in section 16 by striking out all of  
34 subsection 2 (page 21, lines 16 and 17 in L.D.) and inserting in  
its place the following:

36 '2. The provisions regarding clear-cut area limits in  
38 section 8869-A, subsections 3 and 4;'

40 Further amend the bill by inserting after section 18 the  
following:

42 'Sec. 19. Appropriation. The following funds are appropriated  
44 from the General Fund to carry out the purposes of this Act.

46 1996-97

48 CONSERVATION, DEPARTMENT OF

**Policy Planning and Information**

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All Other \$30,000

Provides funds to cover the cost of rulemaking.'

Further amend the bill in section 19 by striking out all of the question (page 22, lines 37 to 39 in L.D.) and inserting in its place the following:

"Do you want the Compact for Maine's Forests to become law to promote sustainable forest management practices throughout the State?"

Further amend the bill in section 19 in the 2nd paragraph by striking out all of the first sentence (page 22, lines 41 to 44 in L.D.) and inserting in its place the following: 'The legal voters of each city, town and plantation shall vote by ballot on this question and the question established by the Secretary of State for Initiated Bill 4 and shall designate their choice by a cross or check mark placed in the corresponding square next to either the question relating to Initiated Bill 4, the question relating to the competing measure or an option of against both Initiated Bill 4 and the competing measure.'

Further amend the bill in section 19 in the 2nd paragraph in the last line (page 22, line 51 in L.D.) by inserting after the following: "January 1, 1997" the following: ', except that the following sections of this Act take effect 90 days after adjournment of the First Regular Session of the 118th Legislature: that section that repeals the Maine Revised Statutes, Title 12, section 8868; that section that enacts Title 12, section 8868-A; that section that repeals Title 12, section 8869; that section that enacts Title 12, sections 8869-A and 8870; that section that amends Title 14, section 7552, subsection 3, paragraph B; that section that amends Title 38, section 439-A, subsection 5, paragraph C; and that section that amends Title 38, section 480-Q, subsection 7-A, paragraph A'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Further amend the bill by inserting at the end before the summary the following:

R 118

FISCAL NOTE

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1996-97

APPROPRIATIONS/ALLOCATIONS

General Fund \$30,000

This bill is a competing measure with Initiated Bill 4, Legislative Document 1819, "An Act to Promote Forest Rehabilitation and Eliminate Clearcutting" and as such must be submitted to the voters in November 1996. The estimated cost of sending this additional question out to referendum is estimated to be approximately \$5,000. These costs can be absorbed within the Department of the Secretary of State's existing budgeted resources.

The Department of Conservation will require a General Fund appropriation of \$30,000 in fiscal year 1996-97 for rule-making costs. The department will also be requesting General Fund appropriations totaling \$399,640 and \$398,158 in fiscal years 1997-98 and 1998-99, respectively, for the additional future costs associated with implementing this bill, if approved by the voters.

Additional enforcement and public education costs to the Bureau of Forestry within the Department of Conservation represent the largest portion of the above-mentioned future costs. The department has requested General Fund appropriations of \$384,640 and \$383,158, including 4 additional positions in fiscal years 1997-98 and 1998-99, respectively. A portion of this request represents underfunding of the department's existing responsibilities. The amount of the additional General Fund appropriations directly attributable to this bill can not be determined at this time. Some amount of these costs are also discretionary and will depend on the level of enforcement and education desired by the Legislature.

The remainder of the future General Fund costs, \$15,000 annually in fiscal years 1997-98 and 1998-99, is associated with the requirements to revise certain municipal ordinances and provide additional notification in certain circumstances. The requirement regarding the amending of municipal ordinances represents a state mandate pursuant to the Constitution of Maine. The bill specifies that the Department of Conservation will reimburse all direct costs incurred by municipalities for revising ordinances and the notification requirements.

2 In addition to the General Fund costs, the possible  
establishment of ecological forest reserves on state-owned lands  
4 administered by the Bureau of Parks and Lands within the  
Department of Conservation may reduce revenues gathered from  
6 timber harvesting collections. Depending on the size of the  
established ecological forest reserve, the estimated annual  
8 reduction of dedicated revenue ranges from \$37,360 for 8,000  
acres to \$46,700 for 10,000 acres. The possible loss of these  
10 dedicated revenues will begin to occur during fiscal year  
1996-97; the exact amounts can not be determined at this time.  
12 The loss of these dedicated revenues is not expected to adversely  
affect the bureau's expenditure needs in the foreseeable future.

14 The University of Maine System will incur some minor  
additional costs associated with assisting in the assessment of  
16 this bill. These costs can be absorbed within the University of  
Maine System's existing budgeted resources.

18 This bill will also increase prosecutions for civil  
20 violations. The additional workload and administrative costs  
associated with the minimal number of new cases filed in the  
22 court system can be absorbed within the budgeted resources of the  
Judicial Department. The collection of additional fines may  
24 increase General Fund revenue by minor amounts.'

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## SUMMARY

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This amendment is the majority report of the Joint Standing  
Committee on Agriculture, Conservation and Forestry. It does the  
32 following:

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1. Requires the Director of the Bureau of Forestry to  
convene a natural resource education advisory committee to work  
36 with the bureau's natural resource educator;

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2. Deletes the provision of the bill that exempted from  
legislative review rules adopted to implement new harvesting  
40 standards and designates those rules as major substantive rules,  
requiring legislative review prior to final adoption;

42

3. Adds definitions to clarify the term "landowner" and  
44 provides for further definition through rulemaking;

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4. Allows additional information necessary for processing a  
clear-cut permit to be specified in rule;

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5. Specifies that only the Director of the Bureau of  
50 Forestry is authorized to issue a stop work order and that the

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COMMITTEE AMENDMENT "A" to H.P. 1390, L.D. 1892

2 only employees of the Department of Conservation that are  
authorized to enforce state forestry laws under the Maine Revised  
4 Statutes, Title 12, chapter 805, subchapter III-A are those  
designated by the commissioner or authorized by statute;

6 6. Restructures and clarifies the provisions of the  
Sustainable Forest Management Audit Program; and  
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10 7. Directs the Land and Water Resources Council to assist  
in determining the need for ecological forest reserves and  
12 provides that an interim report on ecological forest reserves be  
submitted to the joint standing committee of the Legislature  
14 having jurisdiction over forestry matters by June 1, 1997 and a  
final report to the Governor and Legislature by January 1, 1998.  
16 It reduces the acreages from between 12,000 and 15,000 to between  
8,000 and 10,000.

18 This amendment also makes technical changes to and clarifies  
language in the original bill. It adds an appropriations section  
20 and a fiscal note to the bill. It changes the effective date for  
those sections of the bill that regulate timber harvesting to  
22 allow time for rulemaking to implement the changes.