

# MAINE STATE LEGISLATURE

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L.D. 2028

DATE: 5-24-99

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**INLAND FISHERIES AND WILDLIFE**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
119TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1421, L.D. 2028, Bill, "An Act Pertaining to the Management of Atlantic Salmon"

Amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

**'Emergency preamble. Whereas,** Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the number of vacancies on the 9-member Atlantic Salmon Authority has compromised its effectiveness; and

**Whereas,** a small entity can more effectively develop policy and administer the Atlantic salmon conservation plan, provided there are opportunities for public input; and

**Whereas,** this reorganization affirms the State's intention to manage and restore the Atlantic salmon resource in its historical range; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 5 MRSA §12004-G, sub-§20-A,** as enacted by PL 1995, c. 406, §2, is amended to read:

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20-A.	Atlantic	\$25/Day	12 MRSA
Inland	Salmon	Plus	@9901
Fisheries and	Authority	Expenses	\$9902-A
Wildlife	Board		

Sec. 2. 12 MRSA §6001, sub-§2, as enacted by PL 1977, c. 661, §5, is amended to read:

2. **Atlantic salmon.** "Atlantic salmon" means the anadromous finfish, ~~commonly called Atlantic sea-run salmon~~ fish species Salmo salar that customarily migrates from inland waters to the ocean as part of its life cycle.

Sec. 3. 12 MRSA §6071, sub-§1, as amended by PL 1997, c. 153, §1, is further amended to read:

1. **Live importing for introduction into coastal waters.** Except for Atlantic salmon imported by the Atlantic Salmon Authority Commission under Part 12, it is unlawful to import for introduction, possess for purposes of introduction or introduce into coastal waters a live marine organism without a permit issued by the commissioner pursuant to subsection 2.

Sec. 4. 12 MRSA §7001, sub-§1-E is enacted to read:

1-E. **Atlantic salmon.** "Atlantic salmon" means the anadromous fish species Salmo salar that customarily migrates from inland waters to the ocean as part of its life cycle. This definition also applies to chapter 811.

Sec. 5. 12 MRSA §7001, sub-§20, as enacted by PL 1979, c. 420, §1, is amended to read:

20. **Landlocked salmon.** "Landlocked salmon" means ~~the same as salmon~~ the subspecies Salmo salar Sebago that does not customarily migrate from inland waters to the ocean as part of its life cycle. The word "salmon" standing alone without other identification means "landlocked salmon."

Sec. 6. 12 MRSA §7675, as amended by PL 1995, c. 406, §11, is repealed.

Sec. 7. 12 MRSA Pt. 12, as amended, is further amended by repealing the Part headnote and enacting in its place the following:

**PART 12**

**ATLANTIC SALMON COMMISSION**

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2       **Sec. 8. 12 MRSA §9901, sub-§1**, as enacted by PL 1995, c. 406,  
§12, is amended to read:

4       **1. Commission established; purposes.** The Atlantic Salmon  
6       Authority Commission, referred to in this Part as the  
"authority," "commission," is established to manage-the-Atlantic  
8       salmon-fishery protect, preserve, enhance, restore and manage the  
Atlantic salmon and its habitat; to secure a sustainable  
10       recreational fishery in the State; and to conduct and coordinate  
all projects involving research, planning, management,  
restoration or propagation of the Atlantic salmon.

12       **Sec. 9. 12 MRSA §9901, sub-§2**, as repealed and replaced by PL  
14       1995, c. 535, §1, is repealed.

16       **Sec. 10. 12 MRSA §9901, sub-§§3, 4, 5 and 6**, as enacted by PL  
18       1995, c. 406, §12, are repealed.

20       **Sec. 11. 12 MRSA §9902**, as amended by PL 1995, c. 667, Pt. A,  
§36, is amended to read:

22       **§9902. Powers**

24       ~~The authority has the sole authority and responsibility to~~  
26       ~~manage the Atlantic salmon fishery in the State, including the~~  
~~sole authority to introduce Atlantic salmon into Maine inland~~  
28       ~~waters, other than commercial aquaculture facilities and~~  
~~associated activities. This sole authority does not take effect~~  
30       ~~for the inland waters of the Sheepscot, Narraguagus, Pleasant,~~  
~~Machias, East Machias and Dennys rivers until July 1, 1997. The~~  
32       ~~authority has the sole authority to limit or prohibit the taking~~  
~~of Atlantic salmon, issue licenses for the taking of Atlantic~~  
34       ~~salmon and adopt rules establishing the time, place and manner of~~  
~~Atlantic salmon fishing in all waters of the State. In addition~~  
36       ~~to these powers and duties, the authority may:~~

38       The commission has the responsibility of working with other  
agencies in the executive branch of State Government and with  
40       the Legislature, federal and international agencies and the  
private sector in carrying out its mission. The commission has  
42       the sole authority to introduce Atlantic salmon into the inland  
waters, other than commercial aquaculture facilities. The  
44       commission has the sole authority to limit or prohibit the taking  
of Atlantic salmon, may issue licenses for the taking of Atlantic  
46       salmon and may adopt rules establishing the time, place and  
manner of Atlantic salmon fishing in all waters of the State.  
48       The commission may also:

50       **1. Programs.** Conduct research, publish and disseminate  
information and plan, report and implement programs necessary for

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the purposes of managing Atlantic salmon fisheries and its habitat;

2. **Contracts and agreements.** Subject to the applicable provisions of Title 5, sections 1811 to 1824 and other requirements of state law, enter into any contracts, agreements or other arrangements with public agencies and with private parties that the authority commission finds necessary to carry out its purposes;

3. **Funding.** Subject to other applicable requirements of state law, receive and expend funds from any source, public or private, that the authority commission finds necessary to carry out its purposes. Any funds received must be placed in a nonlapsing, separate account established by the Treasurer of State, to be expended by the authority commission for the purposes stated in this section;

4. **Rules.** Adopt rules necessary to manage the Atlantic salmon fishery and to promote the conservation and propagation of the Atlantic salmon. Rules adopted by the authority commission must be enforced by the Department of Marine Resources, the Department of Inland Fisheries and Wildlife and other public officials authorized by law to enforce marine resource laws or inland fisheries and wildlife laws. The Department of Marine Resources and the Department of Inland Fisheries and Wildlife retain exclusive jurisdiction over rules pertaining to species other than Atlantic salmon that are designed to promote the conservation and propagation of Atlantic salmon. The departments shall consult with the Atlantic Salmon Authority Commission in adopting such rules;

5. **Property.** Subject to other applicable requirements of state law, acquire, install, construct, operate, manage, sell and convey interests in real and personal property, including, without limitation, lands, dams, buildings, facilities, structures, flowage rights, mill privileges, easements and rights-of-way, as the authority commission finds necessary to carry out its purposes, provided that prior rights of municipalities are not affected by the requirements; and

7. **Staff.** Subject to appropriation or allocation and in accordance with the Civil Service Law, hire staff to carry out the work of the commission. Hiring and management of the staff is the responsibility of the executive director.

Notwithstanding this section, the Department of Marine Resources has the sole responsibility to regulate Atlantic salmon that are raised by means of aquaculture.

Sec. 12. 12 MRSA §§9902-A, 9902-B, 9902-C and 9902-D are enacted to read:

**§9902-A. Members; appointment; composition; term; compensation**

The commission is governed by the Atlantic Salmon Board, as established in Title 5, section 12004-G, subsection 20-A and referred to in this chapter as the "board." The board consists of 3 members: the Commissioner of Marine Resources, the Commissioner of Inland Fisheries and Wildlife and an at-large public member who must be well informed on the subject of Atlantic salmon and its conservation. The Governor shall appoint the at-large public member, subject to review by the joint standing committee of the Legislature having jurisdiction over fisheries and wildlife matters and to confirmation by the Senate. The public member is appointed for a 3-year term and is entitled to compensation as provided in Title 5, chapter 379. An appointed member may not serve for more than 2 consecutive 3-year terms. The appointed member serves until a successor is appointed. A vacancy must be filled in the same manner as for an original member for the unexpired portion of the term.

**§9902-B. Offices; meetings**

The commission shall have its principal office in the Augusta area but meetings may be held at any time or place within the State. The commission shall select one member as chair. The chair or a majority of the commission may call meetings. A majority of the commission constitutes a quorum to transact business. The commission shall meet at least quarterly to receive reports from the executive director, to consider and act upon recommendations from the executive director and to conduct other business.

**§9902-C. Executive director; appointment; term; duties**

**1. Appointment.** The board shall appoint an executive director who must be selected on the basis of administrative ability and general knowledge of fisheries management. The executive director shall serve at the pleasure of the board and may not hold any other office. The executive director shall devote full time to the duties of this position.

**2. Powers and duties.** The executive director shall manage the administrative and financial matters of the commission in accordance with policies established by the board. The executive director shall execute the directives of the commission and has the following powers and duties:

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A. To employ personnel and staff in accordance with state procedures;

B. To develop and implement programs authorized by the board;

C. To accept grants, donations of monetary value or land necessary to achieve the goals of the commission;

D. With the advice and consent of the board, to adopt, repeal and amend rules, including emergency rules, necessary for proper administration, implementation, enforcement and interpretation of the commission's authority;

E. To act as a legislative liaison for the commission;

F. To enter into cooperative agreements with the Department of Marine Resources and the Department of Inland Fisheries and Wildlife in resource policy matters and in field biology activities;

G. To enter into contractual agreements with other state agencies and private business to achieve the goals of the commission;

H. To work with other state, federal, international and private entities to ensure completion of the commission's goals; and

I. To oversee fish culture operations for Atlantic salmon that are not raised by means of aquaculture.

**§9902-D. Atlantic salmon advisory panels; appointment; composition**

The executive director, with the approval of the board, shall designate panels of advisors to meet periodically to assist in the development of plans and programs for the protection, preservation, enhancement, restoration and management of Atlantic salmon for each of the river basin complexes that represents the historic range of Atlantic salmon in the State.

The executive director must choose advisors from nongovernmental organizations with a demonstrated interest in the Atlantic salmon resource located in each of the river basin complexes described in this section: in the St. Croix River Drainage, at least one panel member must be from the Passamaquoddy Tribe; and in the Penobscot River drainage at least one panel member must be from the Penobscot Indian Nation. The

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executive director shall seek at least one panel member from the province of New Brunswick, Canada.

These river basin complexes represent the historic range of Atlantic salmon in the State and include the St. John River Drainage; the St. Croix River Drainage, the drainages of the Dennys, East Machias, Machias, Narraguagus and Pleasant rivers and other rivers that enter the Atlantic Ocean east of Schoodic Point in the Town of Winter Harbor; the drainages of the Union, Penobscot and Ducktrap rivers and other rivers that enter the Atlantic Ocean west of Schoodic Point and east of Marshall Point in the Town of St. George; the drainages of the Sheepscot, Kennebec and Androscoggin rivers and other rivers that enter the Atlantic Ocean west of Marshall Point and east of Small Point in the Town of Phippsburg; and the Saco River and other rivers that enter the Atlantic Ocean west of Small Point.

**Sec. 13. 12 MRSA §9904, sub-§§1, 2, 6, 7, 8, 9 and 10, as enacted by PL 1995, c. 406, §12, are amended to read:**

**1. License required.** Except as otherwise provided in this section, a person may not fish for, take, possess, ship or transport Atlantic salmon taken from any state waters without a current Atlantic salmon license issued by the authority commission.

**2. License fees.** The authority commission shall issue Atlantic salmon licenses to fish for Atlantic salmon in inland and coastal waters of the State in accordance with the following provisions.

A. The fee for an Atlantic salmon license is \$15 for a resident.

B. The fee for an Atlantic salmon license for any nonresident is as follows:

(1) For a season license for a nonresident 16 years of age or older, \$30;

(2) For a 3-day license for a nonresident 16 years of age or older, \$15. This license may not be exchanged for a season license; and

(3) For a nonresident under 16 years of age, \$5.

C. Members of Maine's Indian tribes and Maine residents under 16 years of age are exempt from any fee.



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6. Atlantic salmon; possession, buying or selling. A person may not possess, buy or sell Atlantic salmon unless each fish is clearly identified by one of the following methods:

A. Tagged with an Atlantic salmon tag provided by the authority commission if caught in Maine waters;

B. Tagged with a New Brunswick, Quebec, Nova Scotia, Prince Edward Island or Newfoundland-Labrador Atlantic salmon tag if imported from those Canadian provinces;

C. Identified by a sales receipt less than 24 hours old;

D. For wholesale and retail seafood dealers, identified by a bill of sale indicating numbers of fish purchased, dates of purchase and point of origin of all fish purchased; or

E. Tagged as provided in this Part.

7. **Exceptions.** This section does not apply to a person licensed to engage in the aquaculture of Atlantic salmon, ~~except that,--that person shall report to the authority the number, weight and locations sold to, of all Atlantic salmon within the authority's jurisdiction. The authority shall maintain these records as confidential documents.~~

8. **Agent's fee.** Any clerk or agent appointed by the authority commission to issue an Atlantic salmon license shall retain \$1 \$2 for each license issued.

9. **Use of license fees.** All license fees must be used by the authority commission for purposes of conservation and management of the Atlantic salmon in this State.

10. **Duplicates.** The authority commission or its agents shall issue a duplicate license to any person whose license was accidentally lost or destroyed. The fee for a replacement license is \$1, all of which is retained by the issuing agent. Atlantic salmon tags bearing the license number of a lost or destroyed license are invalid.

Sec. 14. 12 MRSA §9905, sub-§5, as enacted by PL 1995, c. 406, §12, is amended to read:

5. **Recreational fishing provision.** A person engaged in recreational fishing who takes an Atlantic salmon shall affix to each fish an identification tag designating the date, location and name of the person who caught the fish. The person shall notify the authority commission within 24 hours of that person's

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first landfall providing all information the authority commission may require.

**Sec. 15. 12 MRSA §9906, first ¶**, as enacted by PL 1995, c. 406, §12, is amended to read:

The authority commission may grant an exemption from the provisions of section 6071, subsection 4, for Atlantic salmon, live or eggs, imported for the purpose of enhancing the State's Atlantic salmon fisheries.

**Sec. 16. 12 MRSA §9907, first ¶**, as enacted by PL 1995, c. 406, §12, is amended to read:

Unless otherwise provided by rule adopted by the authority commission, a person may not:

**Sec. 17. 38 MRSA §480-B, sub-§10**, as repealed and replaced by PL 1995, c. 625, Pt. A, §51, is amended to read:

**10. Significant wildlife habitat.** "Significant wildlife habitat" means the following areas to the extent that they have been mapped by the Department of Inland Fisheries and Wildlife or are within any other protected natural resource: habitat, as defined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal lists of endangered or threatened animal species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea--run salmon as defined by the Atlantic Salmon Authority Commission; shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife; and significant vernal pools as defined and identified by the Department of Inland Fisheries and Wildlife. For purposes of this subsection, "identified" means identified in a specific location by the Department of Inland Fisheries and Wildlife.

**Sec. 18. 38 MRSA §480-U, sub-§2, ¶A**, as amended by PL 1995, c. 406, §14, is further amended to read:

A. The application must contain written certification by a knowledgeable professional that the cranberry cultivation project will not be located in a wetland that has one or more of the following characteristics:

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- 2 (1) Is a coastal wetland or is located within 250 feet  
of a coastal wetland;
- 4 (2) Is a great pond;
- 6 (3) Contains endangered or threatened plant species  
8 listed under Title 5, section 3315;
- 10 (4) Contains any type of palustrine natural community  
of which there are 20 or fewer occurrences in the State;
- 12 (5) Contains any of the following resources:
  - 14 (a) Habitat for species appearing on the official  
16 state or federal lists of endangered or threatened  
18 species when there is evidence that the species is  
present;
  - 20 (b) As defined by rule by the Commissioner of  
Inland Fisheries and Wildlife, whether or not the  
22 resource has been mapped, high-value and  
moderate-value deer wintering areas; deer travel  
24 corridors; high-value and moderate-value waterfowl  
or wading bird habitats, including nesting and  
26 feeding areas; shorebird nesting, feeding or  
staging areas; or seabird nesting islands; or
  - 28 (c) Critical spawning and nesting areas for  
Atlantic sea-run salmon as defined by rule by the  
30 Atlantic Salmon Authority Commission whether or  
32 not mapped;
- 34 (6) Is located within 250 feet of the normal high  
water line and within the same watershed of any lake or  
36 pond classified as GPA under section 465-A;
- 38 (7) Is a bog dominated by ericaceous shrubs, sedges  
and sphagnum moss and usually having a saturated water  
40 regime, except that applications proposing reclamation  
of previously mined peat bogs may be considered;
- 42 (8) Is land adjacent to the main stem of a major  
river, as classified in section 467, that is inundated  
44 with floodwater during a 100-year flood event and that  
under normal circumstances supports a prevalence of  
46 wetland vegetation, typically adapted for life in  
saturated soils; or
- 48 (9) Contains at least 20,000 square feet of aquatic  
50 vegetation, emergent marsh vegetation or open water,

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except for man-made artificial ponds or impoundments, during most of the growing season in most years; except that cranberry cultivation is allowed more than 250 feet from the edge of the area of aquatic vegetation, emergent marsh vegetation or open water.

A project to cultivate indigenous cranberries may be located in wetlands described in subparagraphs (6) and (7) only if the project location is a natural cranberry bog and provisions of paragraph D are met. For purposes of this paragraph, "natural cranberry bog" means an area with indigenous large cranberries, *Vaccinium macrocarpon* Ait., comprising more than 50% of the cover in the herbaceous layer; and "cover in the herbaceous layer" means all herbaceous or woody vegetation less than 10 inches in height.

**Sec. 19. 38 MRSA §636, sub-§7, ¶B,** as amended by PL 1995, c. 406, §15, is further amended to read:

B. Whether the project will result in significant benefit or harm to fish and wildlife resources. In making its determination, the department shall consider other existing uses of the watershed and fisheries management plans adopted by the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Atlantic Salmon Authority Commission;

**Sec. 20. Transition provisions.**

1. The Atlantic Salmon Commission is the successor in every way to the Atlantic Salmon Authority.

2. On the effective date of this Act, all position counts, appropriations and allocations to the former Atlantic Salmon Authority are transferred to the Atlantic Salmon Commission and become position counts, appropriations and allocations of the Atlantic Salmon Commission. On and after the effective date of this Act, the Department of Inland Fisheries and Wildlife shall continue to provide the Atlantic Salmon Commission with the same level of administrative support that the department provided to the former Atlantic Salmon Authority.

3. Not later than December 31, 1999, the chair of the Atlantic Salmon Board shall submit a report to the Joint Standing Committee on Inland Fisheries and Wildlife. The report must include the commission's plan for managing the Atlantic salmon fishery in the State and any statutory recommendations pertaining to staffing or budget matters that the board determines necessary to implement that plan. The Joint Standing Committee on Inland

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Fisheries and Wildlife may report out legislation to the Second Regular Session of the 119th Legislature to implement the statutory recommendations of the board.

4. On December 31, 1999, administrative responsibility for the Atlantic salmon conservation plan is transferred from the State Planning Office to the Atlantic Salmon Commission. At the time of the change, all position counts, appropriations and allocations for the Atlantic salmon conservation plan within the State Planning Office are transferred to the Atlantic Salmon Commission.

**Sec. 21. Maine Revised statutes amended; revision clause.** Wherever in the Maine Revised Statutes the words "Atlantic Salmon Authority" appear or reference is made to that entity or those words, they are amended to read and mean "Atlantic Salmon Commission," or "commissions," as appropriate, and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. 22. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1999-00	2000-01
<b>ATLANTIC SALMON COMMISSION</b>		
<b>Atlantic Salmon Commission</b>		
Positions - Legislative Count	(1,000)	(1,000)
Personal Services	56,393	59,500
All Other	10,000	5,000
Appropriates funds for one Executive Director position and necessary operating costs.		
<b>ATLANTIC SALMON COMMISSION TOTAL</b>	<b>\$66,393</b>	<b>\$64,500</b>

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.'

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

**FISCAL NOTE**

	1999-00	2000-01
<b>APPROPRIATIONS/ALLOCATIONS</b>		
General Fund	\$66,393	\$64,500

This bill includes additional General Fund appropriations of \$66,393 and \$64,500 in fiscal years 1999-00 and 2000-01, respectively, for the Atlantic Salmon Commission, formerly the Atlantic Salmon Authority, to provide funding for one Executive Director position and necessary operational costs.

This bill also transfers the administrative responsibility of the Atlantic Salmon Conservation Plan along with all position counts, appropriations and allocations for the plan from the State Planning Office to the Atlantic Salmon Commission not later than January 1, 2000. Public Laws 1999, chapter 16, the "current services" budget, does not provide any funding to the State Planning Office for the Atlantic salmon conservation plan. The Governor's proposed supplemental, "Part 2," budget does include General Fund appropriations of \$211,986 and \$212,200 in fiscal years 1999-00 and 2000-01, respectively, for one position and related funding to implement the Atlantic salmon conservation plan. If that funding is approved, the transition provisions in this bill will transfer those appropriations and the position to the commission by January 1, 2000.

The Atlantic Salmon Commission will also realize some minor savings from the reduction in the number of members of the newly established Atlantic Salmon Board, which is the governing entity for the commission.

Changing the name of the Atlantic Salmon Authority to the Atlantic Salmon Commission will result in some minor additional costs. These costs can be absorbed within the commission's existing budgeted resources.'

**SUMMARY**

This amendment reorganizes the Atlantic Salmon Authority by establishing the responsibility for management of Atlantic salmon in a commission governed by a policy-making board consisting of 3 members: the Commissioner of Inland Fisheries and Wildlife, the Commissioner of Marine Resources and an at-large public member

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2 appointed by the Governor and confirmed by the Senate. The  
commission's duties are expanded to include protection,  
4 preservation, enhancement, restoration and management of Atlantic  
salmon as well as to secure a sustainable recreational fishery.  
The commission will also administer the State's Atlantic salmon  
6 conservation plan.

8 Advisory panels from river basin complexes representing the  
historical range of Atlantic salmon in the State will assist the  
10 Atlantic Salmon Commission in developing plans and programs.

12 This commission also will have responsibility for  
administration of the Atlantic salmon conservation plan. An  
14 executive director, appointed by the board, will be responsible  
for managing the day-to-day operations of the Atlantic Salmon  
16 Commission.

18 The amendment adds an appropriation section and a fiscal  
note to the bill.

**COMMITTEE AMENDMENT**