

# REPORT

*To The*

Committee on Appropriations and Financial Affairs

*In Accordance With*

## Public Law Chapter 380, Part FF

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Reorganization of the Maine State Planning Office

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*December 1, 2011*



*Submitted by the Chair of the Part FF Working Group:*  
David F. Emery, Deputy Commissioner,  
Maine Department of Administrative and Financial Services

**Abstract:**

Part FF of Chapter 380 of the Public Laws of Maine (*The 2011 Appropriations Bill*) established an 11-member Working Group that was directed to “develop proposed legislation that transfers personnel, position counts and responsibilities from the Executive Department, State Planning Office to other departments and agencies of the State.” The Working Group was further directed to report its findings to the Committee on Appropriations and Financial Affairs on or before December 1, 2011, and to include legislation that would, if passed, implement “recommendations for the disposition of programs in the Executive Department, State Planning Office and a recommendation regarding the job title, duties and salary range for the Director, State Planning Office position.”

**Executive Summary:**

On Wednesday, November 16, 2011, the Part FF Working Group adopted its final report by a vote of 9-0, with one abstention (Darryl Brown, Director, State Planning Office); one absent and not voting (David Bowles, House Speaker’s appointee); and one voting ‘Yes’ by proxy (Commissioner Patricia Aho, Department of Environmental Protection). The report recommends the following changes:

- Five front-office positions are eliminated from the State Planning Office (the Director, the Deputy Director, two Senior Executive positions, one Secretary). Funds previously supporting these five positions will be used to fund positions within the new Office of Policy and Management;
- The Office of Energy Independence and Security will be located within the Office of the Governor;
- The Maine Commission for Community Service will be moved into the Department of Education;
- Code Enforcement training functions will be moved to the Office of Community Development within the Department of Economic and Community Development;
- The Federally-funded FEMA Floodplain Mapping Program will move to the Maine Emergency Management Agency;
- All Land Use Planning functions will be consolidated within the Department of Conservation;
- The State Economist and Assistant State Economist will be transferred to the new Office of Policy and Management;
- The Maine Coastal Program will be moved to the Bureau of Geological Services and Natural Areas within Department of Conservation;

- Waste Management and Recycling functions will be relocated to the Bureau of Remediation and Waste Management within the Department of Environmental Protection;
- The ownership of the state-owned landfills (Juniper Ridge, Carpenter Ridge and Dolby) would be transferred to the Bureau of General Services within Department of Administrative and Financial Services; and,
- A new Office of Policy and Management (OPM) will be created. It is designed to become a potent management and analysis tool by which the Governor will develop state policy, analyze the operation of government and identify efficiencies and savings.

***Disposition of Other Statutory Functions Currently Assigned to SPO***

- The Solid Waste Management Advisory Council is repealed;
- The Quality of Place Council is repealed;
- The Land and Water Resources Council is repealed;
- The Community Preservation Advisory Council is repealed;
- The Conservation Easement Registry is moved to the Department of Conservation;
- The Consensus Economic Forecasting Commission (CEFC) is moved to the Office of Policy and Management;
- The Broadband Capacity Building Project is moved to the Department of Economic and Community Development;
- The State Data Center is moved to the Department of Labor; and
- Funding for the eleven Regional Planning Commissions will be continued.

**Narrative:**

Part FF of Chapter 380 of the Public Laws of Maine (*The 2011 Appropriations Bill*) established an 11-member Working Group that was directed to “develop proposed legislation that transfers personnel, position counts and responsibilities from the Executive Department, State Planning Office to other departments and agencies of the State.”

***Governor Establishes Guiding Principles***

At its first meeting, the Working Group was asked by the Governor to follow some guiding principles as it carried out its duties. The principles were as follows:

1. The Executive Office is a management entity. Programs left within the Executive Office should support the management of governmental operations and programs.
2. The reorganization process should examine each program currently residing in the State Planning Office and determine if that function properly belongs in state government or should reside somewhere else.
3. Programs that are determined to be properly operated by state government and that provide real service and value to the people of Maine should be moved to an agency where efficiencies and synergies might be obtained.
4. The end product should result in smaller and more efficient state government.

The recommendations contained within this report and accompanying legislation are consistent with these guiding principles.

***Disposition of State Planning Office Functions***

The following description details the Working Group’s recommendations and presents a rationale for the disposition of State Planning Office functions.

**OFFICE OF ENERGY INDEPENDENCE AND SECURITY**

The Working Group recommends moving the functions of Office of Energy Independence and Security to the Office of the Governor. The primary purpose of this office is to advise the Governor on energy issues, a top priority of the Administration. This issue is so fundamental to growing a healthy and robust Maine economy and promoting the well-being of the taxpayers, citizens, and job creators that the Working Group believes this Office should report directly to the Governor.

### **MAINE COMMISSION FOR COMMUNITY SERVICE**

The Working Group recommends moving the Maine Commission on Community Service to the Department of Education. Since this Commission distributes significant amounts of federal funding, certain synergies are created with the Department of Education, which conducts similar activities in the area. Of the three priorities identified in the Commission's strategic plan, two are directly related to education. In addition, the Commission already works closely with such programs as VISTA and AmeriCorps, programs that work, at least in part, with schools and other educationally-related functions and with recent college graduates. Indeed, some 90% of the volunteers participating in this largely federally-funded program are members of "Generation Y" (persons born approximately between 1975 and 2000). Fostering a culture of volunteerism is, after all, an educational activity regardless of age.

The expectation of the proposal is to require the Commission to raise funds from donations rather than from General Fund revenues as is the current practice. A further expectation is to reorient the Commission's programs, to the degree allowed under federal law, to programs designed to improve education and to promote volunteerism.

The Working Group considered moving the Commission to the Office of the Secretary of State or, alternatively, creating of a new independent and free-standing body. The former was rejected on both fiscal and separation of powers issues; the latter was determined to be a costly idea that would result in increased operating costs while adding no new efficiencies or enhanced performance.

### **CODE ENFORCEMENT TRAINING**

Currently, the State Planning Office is mandated to train and certify municipal and third party code enforcement officers. Under this proposal, these statutory requirements would be transferred to the Office of Community Development within the Department of Economic and Community Development. A number of issues remain regarding shortfalls in the special revenue account that funds these activities. These funding issues will need to be addressed; and, the training functions will need further review to ascertain program viability under the current and anticipated funding streams.

### **FLOODPLAIN MAPPING**

This initiative would move federally-funded Federal Emergency Management Agency (FEMA) floodplain mapping functions from SPO to the Maine Emergency Management Agency (MEMA). MEMA works regularly with FEMA on flood preparedness and recovery, as well as on a host of other important emergency management matters. The Working Group, therefore, recommends strengthening that relationship to promote better coordination of flood preparedness and emergency management planning within one governmental entity.

## **LAND USE PLANNING**

Currently, functions related to land use regulation and technical assistance reside in several different agencies. The Working Group feels that by consolidating state land use functions at the Department of Conservation, a better focus and unity of effort will be achieved in this important area.

In addition, two possible developments with related agencies may create even greater synergies. The Land Use Regulatory Commission (LURC) is currently being considered as a candidate for reform in a process similar to this one that has restructured the State Planning Office. This may create an opportunity to establish a significant land use technical assistance entity with combined existing resources from both LURC staff and SPO land use functions. Regardless of the outcome of the LURC commission, the planned merger of the Departments of Agriculture and Conservation present additional opportunities to bolster a new Office of Land Use Technical Assistance at the new entity.

## **LAND FOR MAINE'S FUTURE**

The Working Group recommends moving the Land for Maine's Future (LMF) program to the Bureau of Geological Services and Natural Areas within the Department of Conservation. This Bureau is oriented toward the practical application of the natural resource sciences. It would, therefore, provide a high level of intellectual power behind what may be limited funding. This will allow for intelligent and thoughtful application of finite conservation resources. Moreover, the Bureau is not a recipient of LMF funds so it remains a neutral party in what is, at times, a rather competitive process between state agencies.

## **ECONOMICS AND DEMOGRAPHICS**

Placement of the State Economist, the Assistant State Economist and the Consensus Economic Forecasting Commission (CEFC) within the Office of Policy and Management is a cornerstone of the Governor's vision for this new entity. It will allow for continued government-wide access to the work of the State Economist, while also providing the Governor with clear and easy access to econometrics and other key information needed for effective decision-making.

## **MAINE COASTAL PROGRAM**

Placement of management of the Maine Coastal Program within the Bureau of Geological Services and Natural Areas, Department of Conservation, will create certain efficiencies with the hydrologist, geologists, beach experts, and mapping experts joining with the planners of the Maine Coastal Program. The result will be smarter decision-making and a more focused use of these largely federal funds.

## **WASTE MANAGEMENT AND RECYCLING**

The Working Group recommends combining similar recycling and waste management functions in one place at the Bureau of Remediation and Waste Management within the Department of

Environmental Protection. Significant efficiencies will be achieved by combining these similar functions under one roof, particularly since the DEP is currently working with municipal landfills and recyclers. This expands DEP's responsibilities to include developing waste management plans and reinvigorating the push to increase recycling in Maine towards the statutory aspiration of 50% participation. This initiative would allow for new approaches for achieving this goal, such as a renewed emphasis on waste as a source of energy. Moreover, savings from reduced personnel costs and other efficiencies would allow for more resources to be allocated to grants and programs enabling new approaches.

#### **STATE-OWNED LANDFILLS**

The ownership of the state-owned landfills (Juniper Ridge, Carpenter Ridge and Dolby) would be transferred to the Bureau of General Services within Department of Administrative and Financial Services. It is important to note that this proposal treats the state-owned landfills differently than under current law inasmuch as it anticipates an economic development nexus, such as a possible waste-to-energy initiative. For this reason, one FTE currently managing the landfills would be transferred to the Department of Economic and Community Development.

### ***Disposition of Other Statutory Functions of SPO***

The following description details the Working Group's recommendations for the disposition of certain other statutory functions now residing in the State Planning Office:

#### **SOLID WASTE MANAGEMENT ADVISORY COUNCIL**

The Working Group recommends that the Solid Waste Management Advisory Council be repealed. With the consolidation of waste management and recycling functions at the Department of Environmental Protection, a formalized advisory council is deemed unnecessary. The Working Group recognizes the value and need for input from a variety of stakeholders such as municipalities and solid waste and recycling-related industries, and, therefore, urges the DEP to continue this dialogue on an as-needed basis.

#### **QUALITY OF PLACE COUNCIL**

The Working Group recommends that the Quality of Place Council be repealed. The Council is duplicative of efforts by the Department of Economic and Community Development and regional planning commissions. The Council adds transactional and significant staff time expenses while providing observations of marginal value. Funds and staff time expended upon this Council are better spent on more focused programs at either the department or regional level that result in creation of jobs.

### **LAND AND WATER RESOURCES COUNCIL**

The Working Group recommends that the Land and Water Resources Council be repealed. This Council, made up entirely of Commissioners, is redundant of the Executive Branch's cabinet structure. The Governor expects his Cabinet to work together on all matters that cross agencies. The Working Group recognizes that expectation and, therefore, finds this Council to be unnecessary. Likewise, provisions for mediation of land use disputes are duplicative of mediation provisions in the Maine Rules of Civil Procedure. In fact, from 1995-2009, only five mediations were actually conducted, begging the question as to whether this function is truly worth staff time and expense. The Department of Conservation's representative on the Working Group expressed an ongoing need for natural resource based agencies to continue to work together on matters of mutual interest. The Working Group concurs and recommends the DOC propose a Memorandum of Understanding be drafted between agencies if it determines any additional authority is necessary to further cooperation.

### **COMMUNITY PRESERVATION ADVISORY COUNCIL**

The Working Group recommends that the Community Preservation Advisory Council be repealed. This Council is set to sunset in June 2012 per Maine Statute pursuant to 30-A MRSA § 4350. These recommendations simply honor the legislative intent of the statute and would eliminate the Council roughly on the existing statutory schedule.

### **CONSERVATION EASEMENT REGISTRY**

The Working Group recommends that the Conservation Easement Registry be relocated to the Department of Conservation. Since the registry functions as a repository of data relating to conservation easements throughout the state, the move to the Department of Conservation is entirely logical.

### **CONSENSUS ECONOMIC FORECASTING COMMISSION**

The Consensus Economic Forecasting Commission (CEFC) analyzes economic trends and assumptions and prepares economic forecasts for the Governor, Revenue Forecasting Committee, Legislative Council, and Legislature's Appropriations and Financial Affairs Committee. The Working Group recommends that the CEFC be located within the Office of Policy and Management along with the State Economist and the Assistant State Economist. This move will co-locate these important economic functions in the same relationship as they were organized under the State Planning Office.

### **BROADBAND CAPACITY BUILDING PROJECT**

The Broadband Capacity Building Task Force manages the creation and implementation of a statewide plan to provide broadband Internet coverage throughout the state. Since the expansion of broadband capacity is critical to economic growth, job creation and community development, the Working Group recommends that the Broadband Capacity Building Project be relocated to the Department of Economic and Community Development.

## **STATE CENSUS DATA CENTER**

The Data Center receives population and demographic data from the US Census Bureau which is used for such functions as economic forecasting, reapportionment and for various purposes by the Department of Labor. The Working Group recommends that the Data Center be located within the Department of Labor which is a major user of its statistical and demographic information.

## **REGIONAL PLANNING COMMISSIONS**

There are currently eleven Regional Planning Commissions covering the entire state that provide certain planning services to county and municipal governments, particularly relating to technical assistance for the creation, development and implementation of comprehensive plans. In recent years, the Regional Planning Commissions have received funding from the General Fund as well as from the Maine Coastal program. It is proposed that a level of funding to the Regional Planning Commissions be continued at approximately \$300,000.

### ***The Governor's Office of Policy and Management***

A new Office of Policy and Management (OPM) will be created as an executive branch agency. It is designed to become a potent management and analysis tool by which the Governor will develop state policy, analyze the operation of government and identify efficiencies and savings. Specifically, OPM will:

- **Develop long-range fiscal policy.** OPM will prepare long-range economic projections to ensure that projected state financial resources are commensurate with projected state expenditures needed to meet long-term state economic goals and objectives.
- **Analyze government operations.** OPM will analyze the structure and function of government with a view to improving the efficiency and cost-effectiveness of government operations, programs and the delivery of services.
- **Devise and promulgate effective financial management strategies.** OPM will recommend government-wide policies and management tools to improve the financial management of agencies and programs.
- **Support a continued streamlining effort.** OPM will support a continuous effort to streamline government operations and programs in order to promote efficiency, generate savings and further reduce the burden of excessive government.
- **Analyze policy options and draft legislation.** OPM will function as a think tank and research vehicle in support of the Governor's policy priorities, including energy, education and economic development.

OPM will consist of 6 to 10 employees whose skill sets differ significantly from those of the current State Planning Office. In addition to the Director and the State Economist, these may include, but are not limited to:

- Additional economists
- Certified Public Accountants with audit skills
- Attorneys
- Research specialists

It is intended that funding for OPM will be derived entirely from savings achieved from the elimination of six General Fund FTE positions. OPM will essentially be self-funded in the out years through a statutory requirement that it identify at least \$1 million a year in savings.

### ***Draft Legislation***

As directed in Part FF, the Committee, working with staff at the State Planning Office, has drafted proposed legislation to accomplish the recommendations of this report, a copy of which is attached hereto as Appendix C. This legislation will be submitted as part of the Governor’s Second Supplemental Appropriations Bill.

Under this legislation, the State Planning Office will cease to exist on July 1, 2012 and the responsibilities, property and equipment of SPO will then transfer to the new Office of Policy and Management or to the other agencies of state government as designated. However, the Office of Policy and Management will be created as of May 1, 2012, allowing the Governor to appoint the OPM Director in order to establish the Office in advance of the July 1, 2012 transition of responsibilities.

### ***General Fund Savings Resulting from SPO Reorganization***

	<b>FY12</b>	<b>FY13</b>
Savings <u>Already Booked</u> in <i>PL 2011, c. 380</i> :	\$ 280,620	\$ 294,013
Proposed Savings Resulting from Part FF Legislation:	-----	\$ 902,824
 GF SAVINGS RESULTING FROM SPO REORG:	 \$ 280,620	 \$1,196,837
OPM Funding in Part FF Legislation:		(\$ 773,475)
<b>TOTAL GF SAVING RESULTING FROM SPO REORG:</b>	<b>\$ 280,620</b>	<b>\$ 423,362</b>

Of the \$902,824 Part FF savings in FY13, \$773,475 will be used to create the new Office of Policy and Management. Of that amount, \$659,834 will go into Personal Services to staff the office, with the remaining \$113,641 in All Other for operating expenses. After transferring funding to the new OPM, this will bring an additional net savings to the General Fund in FY13 of \$129,349 resulting from Part FF, bringing the total General Fund net savings from the reorganization of the State Planning Office to \$703,982.

## Appendix A. – Text of Chapter 380, Part FF:

### PART FF

**Sec. FF-1. Working Group; development of implementing legislation.** The Commissioner of Administrative and Financial Services shall convene a Working Group to develop proposed legislation that transfers personnel, position counts and responsibilities from the Executive Department, State Planning Office to other departments and agencies of the State.

1. The members of the Working Group are:

A. The Director of the State Planning Office within the Executive Department or the director's designee;

B. The Commissioner of Labor or the commissioner's designee;

C. The Commissioner of Public Safety or the commissioner's designee;

D. The Commissioner of Defense, Veterans and Emergency Management or the commissioner's designee;

E. The Commissioner of Conservation or the commissioner's designee;

F. The Commissioner of Economic and Community Development or the commissioner's designee;

G. The Commissioner of Marine Resources or the commissioner's designee;

H. The Commissioner of Environmental Protection or the commissioner's designee;

I. One member of a local or regional governing body appointed by the President of the Senate; and

J. One representative of a municipal or regional governing body appointed by the Speaker of the House.

2. The Commissioner of Administrative and Financial Services shall serve as the chair of the Working Group.

3. The Executive Department, State Planning Office and the Department of Administrative and Financial Services, Division of Financial and Personnel Services shall provide staff assistance to the Working Group.

**Sec. FF-2. Report.** The Working Group shall submit its recommendations and any related proposed legislation to the Joint Standing Committee on Appropriations and Financial Affairs no later than December 1, 2011. The proposed legislation must include recommendations for the disposition of programs in the Executive Department, State Planning Office and a recommendation regarding the job title, duties and salary range for the Director, State Planning Office position. After receipt and review of the report, the joint standing committee may submit legislation to the Second Regular Session of the 125th Legislature to transfer duties and responsibilities from the State Planning Office to other departments and agencies of State Government.

## Appendix B. – Spreadsheet Showing Functions and Personnel

Function (# of Positions)	Proposal
State Planning Front Office	
Director (1)	Eliminate
Deputy Director (1)	Eliminate
Public Service Executive (1)	Eliminate
Public Service Executive (1)	Eliminate
Secretary Specialist (1)	Eliminate
Office of Energy (2)	Governor's Office
Maine Commission on Community Service (5)	DOE
Code Enforcement (1)	DECD
Floodplain Management (3)	MEMA
Land Use Planning (4)	DOC
Land for Maine's Future (3)	DOC
Economics and Demographics	
State Economist (1)	OPM
Assistant State Economist (1)	OPM
Maine Coastal Program (15)	
	DEP (5)
	DMR (3)
	DOC (7)
Waste Management and Recycling	DEP
Landfill Manager (1)	DECD
Planners (3)	Eliminated
Ownership of Landfills	BGS

**An Act to Transfer Duties and Responsibilities of State Planning Office to Other  
Departments and Agencies of State Government**

**Part A**

**Sec. A-1. 2 MRSA §6, sub-§3** is amended to read:

**3. Range 89.** The salaries of the following state officials and employees are within salary range 89:

Director, Bureau of General Services;

Director, Bureau of Alcoholic Beverages and Lottery Operations;

State Budget Officer;

State Controller;

Director of the Bureau of Forestry;

~~Director, State Planning Office~~ Director, Governor's Office of Policy and Management;

Director, Energy Resources Office;

Director of Human Resources; Director, Bureau of Parks and Lands; and

Director of Econometric Research.

**Sec. A-2. 3 MRSA §959, sub- §1, ¶M** is amended to read:

M. The joint standing committee of the Legislature having jurisdiction over state and local government matters shall use the following list as a guideline for scheduling reviews:

- (1) Capitol Planning Commission in 2011;
- (1-A) Maine Governmental Facilities Authority in 2005;
- (2) State Civil Service Appeals Board in 2005;
- (3) State Claims Commission in 2005;
- (4) Maine Municipal Bond Bank in 2007;
- (5) Office of Treasurer of State in 2007;
- (6) Department of Administrative and Financial Services, except for the Bureau of Revenue Services, in 2011; and
- (7) Department of the Secretary of State, except for the Bureau of Motor Vehicles, in 2011, ~~and~~

~~(9) State Planning Office, except for the Land for Maine's Future Board, in 2007~~

**Sec. A-3. 5 MRSA chapter 311** is repealed.

## **Part B**

**[Note: Rename Title 5, Part 8 "Policy and Management"]**

**Sec. B-1. 5 MRSA §1531, sub-§1** is amended to read:

**1. Average population growth.** "Average population growth" means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in population from July 1st of each year and estimated by the United States Department of Commerce, Bureau of Census as adjusted ~~and maintained by the Executive Department, State Planning Office~~ by the Governor's Office of Policy and Management.

**Sec. B-2. 5 MRSA §1531, sub-§2** is amended to read:

**2. Average real personal income growth.** "Average real personal income growth" means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in personal income in this State, as estimated by the United States Department of Commerce, Bureau of Economic Analysis, less the percent change in the Consumer Price Index for the calendar year. For purposes of this subsection, "Consumer Price Index" has the same meaning as in Title 36, section 5402, subsection 1. The average real personal income growth is determined by October 1st, annually, by the ~~Director of the State Planning Office within the Executive Department~~ Governor's Office of Policy and Management.

**Sec. B-3. 5 MRSA §1710-D** is amended to read:

### **§1710-D. Staffing**

The commission may receive staff support from the ~~State Planning Office~~ Governor's Office of Policy and Management.

**Sec. B-4. 5 MRSA §1710-I** is amended to read:

### **§1710-I. Staffing**

The committee may receive staff assistance from the Bureau of the Budget, the ~~State Planning Office~~ Governor's Office of Policy and Management, the Bureau of Revenue Services and, at the discretion of the Legislature, the Office of Fiscal and Program

Review. The committee may also utilize other professionals having revenue forecasting, economic and fiscal expertise.

**Sec. B-5. 5 M RSA chapter 310** is enacted to read:

## Chapter 310

### Governor's Office of Policy and Management

**§3100. Definitions.** As used in this chapter, the following terms have the following meanings:

**1. Director.** "Director" means the director of the Governor's Office of Policy and Management established by section 3101.

**2. Office.** "Office" means the Governor's Office of Policy and Management established by section 3101.

**§3101. Office established; purpose.** The Governor's Office of Policy and Management is established in the Executive Department to facilitate achievement of long-term state economic goals and objectives and identification and implementation of opportunities to improve the efficiency and effectiveness of the performance of the functions of and delivery of services by State Government.

**§3102. Director.** The director of the Governor's Office of Policy and Management is appointed by the Governor and serves at the pleasure of the Governor.

**§3103. Powers and duties.** The director is authorized to exercise the powers and is responsible for fulfillment of the duties of the office provided for by this section. The director must:

**1. Staff.** Appoint, remove, and prescribe the duties of staff of the office as necessary to implement the duties of the office. The director is authorized to hire as unclassified employees professional personnel competent by education, training, and experience in such areas as economics, law, accounting, and public policy. The director is authorized to hire as classified employees other personnel, who shall be subject to the civil service and personnel policies established for state employees generally, as required to support implementation of the duties of the office;

**2. Long-range fiscal policy.** Prepare long-range economic projections to ensure that projected available state financial resources are commensurate with projected state expenditures needed to meet long-term state economic goals and policies;

**3. Assessment and analysis of governmental operations.** Analyze the structure and functions of State Government and identify options and develop recommendations for consideration by the Governor regarding improvement of the efficiency and

effectiveness of governmental functions and programs and delivery of governmental services. In carrying out duties under this subsection section, the director may:

**A. Strategic planning.** Prepare strategic and long-range plans and goals for reform of State Government through creation of efficiencies and streamlining of operations;

**B. Performance measures.** Establish metrics for the measurement of and further develop systems for on-going evaluation of the efficiency and effectiveness of state programs and delivery of state services;

**C. On-going assessment.** Review and determine whether there is continuing need for state programs, boards and commissions, in part through consideration of whether their public benefit equals or exceeds their cost; and

**4. Strategic financial management.** Recommend government-wide policies to improve financial management for consideration by the Governor. In carrying out duties under this subsection, the director may review state agencies' proposals for funding from public and private entities, including the Federal Government, for consistency with pertinent state law and fiscal policy;

**5. Analysis of state economy; studies and forecasts.** Conduct studies and continuing economic analysis of the state economy, including economic forecasting, and collect, collate and analyze all pertinent data and statistics relating thereto to assist the Governor, the Legislature and the various state departments in formulating economic goals and programs and policies to achieve such goals. The office must make these data and statistics available to the Legislature upon request. All state agencies must cooperate with the office regarding implementation of the provisions of this subsection. In implementing this subsection, the office may use secondary data made available to the office by other state agencies or other organizations;

**6. Economic implications of policy initiatives.** At the Governor's request, advise on the risks, costs, benefits, and effects on job creation and job retention in the State of proposed legislation or other policy initiatives;

**7. Other studies.** Conduct investigations, audits, and studies to fulfill the office's duties as the director deems appropriate;

**8. Coordination.** Facilitate inter-governmental and intra-governmental coordination, relations, and communications, and provide general coordination and review of plans in functional areas of State Government as may be necessary for receipt of federal funds;

**9. Subpoenas.** Be empowered, in connection with the performance of the office's duties, to issue subpoenas to compel the attendance of witnesses, the production of books, papers, records, and documents of individuals, firms, associations and corporations and

all officers, boards, commissions and entities of state, county and municipal government, including quasi-governmental and independent agencies. Whenever a person refuses to obey a subpoena duly issued by the Director, the Superior Court for Kennebec County or any court of this State, within the jurisdiction of which the person resides or transacts business, shall have jurisdiction to issue to that person an order requiring him to comply with the subpoena and any failure to obey that order may be punished by the court as contempt. Refusal to obey the Director's subpoena also constitutes a violation of this chapter; and

**10. Other related duties.** Perform other duties related to its purpose under section 3101 as assigned by the Governor or as directed by statute.

**§3104. Acceptance and administration of funds.** The office may accept, administer, and expend funds, including but not limited to funds from the Federal Government or from any individual, foundation or corporation, for purposes consistent with this chapter.

**§3105. Contracts.** The office may contract with public and private entities for research and analysis and other services, as the director determines necessary to address the office's duties under this chapter.

**§3106. Governmental cooperation; temporary reassignment of governmental employees.** All departments, agencies, authorities, boards, commissions and other instrumentalities of the State shall, at the director's request, assist the office in the gathering of information, reports and data which relate to the performance of the duties of the office. Subject to approval by the Governor, at the request of the director a state agency must, as provided in chapter 309, assign qualified personnel to the office for a period of up to six months to assist the office in the performance of its duties.

**§3107. Confidential or Proprietary Information.** No entity of state, county or municipal government, including quasi-governmental or independent agencies of the State shall deny the Office access to confidential information when request of the information is made in connection with the performance of the duties of the Office. All information or documents determined to be confidential under federal or state law or by order of a court shall remain confidential under the original public records exception when in the possession of the Office.

**Sec. B-6. Initial recommendations.** No later than December 1, 2012, the Governor's Office of Policy and Management shall develop and recommend to the Governor and the Legislature changes in the structure, functions or operations of state government to achieve General Fund savings of at least \$1,000,000 each during fiscal years 2013-14 and 2014-15.

**Sec. B-7. Creation of Governor's Office of Policy and Management; Elimination of the Executive Department, State Planning Office; Transition Provisions.**

PART FF WORKING GROUP – DRAFT LEGISLATION  
DECEMBER 1, 2011

1. The Governor's Office of Policy and Management is created as of May 1, 2012. The Governor shall appoint the Director of the Office at any time on or after that date. The Director of the Office shall establish the Office, including creation of employee positions pursuant to this Act, to be hired on or after July 1, 2012.

2. The Executive Department, State Planning Office is eliminated on July 1, 2012. All transfers of Executive Department, State Planning Office responsibilities to the Governor's Office of Policy and Management under this Act are effective on July 1, 2012.

3. All records, property and equipment previously belonging to or allocated for the use of the Executive Department, State Planning Office, which have not otherwise been provided for under this Act, shall become the property of the Governor's Office of Policy and Management.

**Sec. B-8. 5 MRSA §13120-Q, first ¶** is amended to read:

**§13120-Q. Exceptions**

The authority, with the advice of the department, the Department of Labor ~~the State Planning Office~~ and such other agencies it determines appropriate, may waive the requirements of section 13120-P, subsection 2, paragraph E and section 13120-P, subsection 3, paragraph E if the municipality has experienced a historical lack of private investment and it is reasonably expected that private investment will not be available to assist with project financing and one of the following conditions is met:

**Sec. B-9. 5 MRSA §13056, sub-§3** is amended to read:

**3. Conduct planning and research.** Conduct planning, research and analysis for department needs, but not macroeconomic forecasting which shall be the responsibility of the ~~State Planning Office~~ Governor's Office of Policy and Management. The department shall gather, maintain and have access to all economic and other information necessary to the performance of its duties;

**Sec. B-10. 10 MRSA §363, sub-§2-A** is amended to read

**2-A. Recommendation of Governor and issuers.** At any time action of the Legislature under subsection 1-A is necessary or desirable, the Governor shall recommend to the appropriate committee of the Legislature a proposed allocation or reallocation of all or part of the state ceiling. To assist the Governor in making a recommendation of proposed allocations of the state ceiling on private activity bonds, the group of 7 representatives described in subsection 1-A shall make a recommendation regarding allocation or reallocation of the state ceiling. In order to assist the group in making its recommendation and to assist the Governor and the Legislature, the ~~State Planning Office~~ Department of Administrative and Financial Services, in consultation with the Governor's Office of Policy and Management, shall prepare an annual analysis of the State's economic outlook, prevailing interest rate forecasts related to tax-exempt financing by the issuers specifically identified in subsections 4 to 8, the availability to

those issuers of alternative financing from sources that do not require an allocation of the state ceiling and the relationship of these factors and various public policy considerations to the allocation or reallocation of the state ceiling. In recommending any allocation or reallocation of the state ceiling to the Legislature, the Governor shall consider the requests and recommendations of those issuers of bonds within the State designated in this section, the recommendations of the group of representatives described in subsection 1-A and the annual analysis of the ~~State Planning Office~~ Department of Administrative and Financial Services.

**Sec. B-11. 12 MRSA §8876, sub-§2** is amended to read

**2. Future demand.** Project future demand for forest resources based on a common economic forecast developed by the ~~State Planning Office~~ Governor's Office of Policy and Management and on other appropriate economic projections;

**Sec. B-12. 26 MRSA §3** is amended to read:

### **§3. Records confidential**

All information and reports recorded by the director or the director's authorized agents under this Title are confidential, and no names of individuals, firms or corporations may be used in any reports of the director nor made available for public inspection. The director may release information and reports to other government agencies if the director believes that the information will serve to further the protection of the public or assist in the enforcement of local, state and federal laws. The director may also release information and reports to the public pertaining to final bureau action taken under the authority of this Title. Records pertaining to the work force, employment patterns, wage rates, poverty and low-income patterns, economically distressed communities and regions and other similar information and data must be made available to the Department of Economic and Community Development and to the ~~State Planning Office~~ Governor's Office of Policy and Management for the purposes of analysis and evaluation, measuring and monitoring poverty and economic and social conditions throughout the State and to promote economic development with the understanding that the confidentiality of the information will be maintained.

**Sec. B-13. 30-A MRSA §5652, sub-§2** is amended to read:

**2. Funding municipal education foundations.** A municipality may accept endowment funds from citizens, estates, municipal contributions and bond money to fund a municipal education foundation to support local education pursuant to section 5724, subsection 10. The foundation may not spend the funds until it meets certain growth standards recommended by the ~~Executive Department, State Planning Office~~ Department of Administrative and Financial Services.

**Sec. B-14. 30-A MRSA §5724, sub-§10** is amended to read:

**10. Municipal education foundations.** A municipal education foundation is established with the assistance of ~~the Executive Department, State Planning Office~~ Department of Administrative and Financial Services and must contain the following provisions.

A. The endowment of a municipal education foundation is funded by contributions by citizens, estates, municipalities and bond money if the foundation meets ~~the Executive Department, State Planning Office~~ standards pursuant to section 5652, subsection 2.

B. Trustees of a municipal education foundation must be citizens of the municipality and contain at least one member who is a teacher or administrator in the municipality's education system to be a liaison between the school system and the municipal education foundation.

**Sec. B-15. 30-A MRS §5903, sub-§6-A** is amended to read:

**6-A. Median household income.** "Median household income" means the income computed based on the most current census information available, as provided by the ~~State Planning Office~~ Governor's Office of Policy and Management.

**Sec. B-16. 35-A MRS §3454, first paragraph** is amended to read:

**§3454. Determination of tangible benefits; requirements**

In making findings pursuant to Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3, the primary siting authority shall presume that an expedited wind energy development provides energy and emissions-related benefits described in section 3402 and shall make additional findings regarding other tangible benefits provided by the development. The Department of Labor, ~~the Executive Department, State Planning Office~~ Governor's Office of Policy and Management, the Governor's Office of Energy Independence and Security, and the Public Utilities Commission shall provide review comments if requested by the primary siting authority.

**Sec. B-17. 35-A MRS §3454, sub- §5** is amended to read:

**5. Promoting economic development and resource conservation; assistance to host communities.** To the extent practicable within existing resources, the Department of Economic and Community Development, ~~the Governor's Office of Energy Independence and Security, and the Executive Department, State Planning Office~~ Governor's Office of Policy and Management shall provide, upon the request of a host community, assistance for the purpose of helping the host community maximize the economic development and resource conservation benefits from tax payments and payments made pursuant to a community benefit agreement or a community benefits package in connection with expedited wind energy developments. As part of this assistance, the department ~~and the office~~ Department of Economic and Community Development shall support host communities in identifying additional funding and developing regional economic and natural resource conservation strategies.

**Sec. B-18. 36 MRSA §6759** is amended to read:

**§6759. Program administration**

The commissioner shall administer this Act. The commissioner and the State Tax Assessor may adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the program, including, but not limited to, rules for determining and certifying eligibility. The commissioner may also by rule establish fees, including fees payable to the State Tax Assessor ~~and the State Planning Office~~ for obligations under this chapter. Any fees collected pursuant to this chapter must be deposited into a special revenue account administered by the State Tax Assessor and those fees may be used only to defray the actual costs of administering this Act.

**Sec. B-19. 36 MRSA §7302** is amended to read:

**§7302. Progress reporting and data**

**1. Assessment and report.** ~~The State Planning Office~~ Governor's Office of Policy and Management shall separately assess and report on the progress made by the State, municipalities, counties and school administrative units, respectively, in achieving the tax burden reduction goals established in section 7301.

**2. Indicators; annual report.** With reference to Title 5, chapter 142; Title 20-A, section 15671, subsection 1; and Title 30-A, sections 706-A and 5721-A, the ~~State Planning Office~~ Governor's Office of Policy and Management shall develop and apply specific, quantifiable performance indicators against which the progress in achieving the tax burden reduction goals established in section 7301 can be measured. On January 15, ~~2006~~ 2013 and annually thereafter, the ~~State Planning Office~~ Governor's Office of Policy and Management shall report to the Governor and to the joint standing committee of the Legislature having jurisdiction over taxation matters on the progress made by the State, counties, municipalities and school administrative units, respectively, in achieving the tax burden reduction goals. The report required by this subsection must be comprised of 4 distinct parts reporting on the progress made by the State, municipalities, counties and school administrative units, respectively. The ~~State Planning Office~~ Governor's Office of Policy and Management may also include in its report recommendations on alternative strategies to achieve the tax burden reduction goals established in section 7301 that reflect the best practices in this State, other states and other countries.

**3. Data.** The ~~State Planning Office~~ Governor's Office of Policy and Management shall annually collect and analyze data regarding spending and revenues for municipalities, counties and school administrative units. The ~~State Planning Office~~ Governor's Office of Policy and Management shall submit an annual report that provides information and analysis regarding government spending and revenue behavior and trends to the Governor and the joint standing committee of the Legislature having jurisdiction over taxation matters. The report must include information that identifies

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spending and revenue behavior by individual municipalities, counties and school administrative units. Upon request, other departments of State Government shall cooperate and assist the ~~State Planning Office~~ Governor's Office of Policy and Management in the preparation of the report.

**Sec. B-20. 38 MRSA §484, sub-§10** is amended to read:

**10. Special provisions; wind energy development or offshore wind power project.** In the case of a grid-scale wind energy development, or an offshore wind power project with an aggregate generating capacity of 3 megawatts or more, the proposed generating facilities, as defined in Title 35-A, section 3451, subsection 5:

A. Will be designed and sited to avoid unreasonable adverse shadow flicker effects;

B. Will be constructed with setbacks adequate to protect public safety. In making a finding pursuant to this paragraph, the department shall consider the recommendation of a professional, licensed civil engineer as well as any applicable setback recommended by a manufacturer of the generating facilities; and

C. Will provide significant tangible benefits as determined pursuant to Title 35-A, section 3454, if the development is an expedited wind energy development.

The Department of Labor, the ~~Executive Department, State Planning Office~~ Governor's Office of Policy and Management, the Governor's Office of Energy Independence and Security, and the Public Utilities Commission shall provide review comments if requested by the primary siting authority.

For purposes of this subsection, "grid-scale wind energy development," "primary siting authority," "significant tangible benefits" and "expedited wind energy development" have the same meanings as in Title 35-A, section 3451.

**Sec. B-21. Resolves 1977, ch. 36, section 1** is repealed.

**Sec. B-22. Transition provisions; economics and demographics-related matters.** The following provisions apply to the reassignment of duties, responsibilities and activities of the Executive Department, State Planning Office regarding economics and demographics.

1. Two authorized positions and incumbent personnel in the Executive Department, State Planning Office that are assigned to that office's economics and demographics program are transferred to the Executive Department, Governor's Office of Policy and Management. These employees shall retain their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

2. If so designated by the Governor, the Department of Labor is authorized to serve as the State Data Center for purposes of State Data Center Program administered by the United States Department of Commerce, Census Bureau and to develop a memorandum of agreement with the Census Bureau that outlines responsibilities of the department and bureau under the State Data Center Program.

**Part C**

**Sec. C-1. 5 MRSA §2003, sub-§2, ¶D, sub-paragraph 3** is amended to read:

(3) One representative of a statewide association of regional councils, appointed by the Speaker of the House from nominations made by the ~~Executive Department, State Planning Office~~ Department of Conservation;

**Sec. C-2. 5 MRSA §3331** is repealed.

**Sec. C-3. 5 MRSA chapter 363** is repealed.

**Sec. C-4. 5 MRSA §12004-G, sub-§29-C** is repealed.

**Sec. C-5. 5 MRSA §12004-I, sub-§68-B** is repealed.

**Sec. C-6. 5 MRSA §13056-D, sub-§2-C** is amended to read:

C. The ~~Director of the State Planning Office within the Executive Department~~ Commissioner of the Department of Conservation, or the commissioner's designee; and

**Sec. C-7. 5 MRSA §13083-T, sub-§2-C** is repealed.

**Sec. C-8. 5 MRSA §13090-F, sub-§1, final paragraph** is amended to read:

The terms of the voting members are for 4 years each. The Governor shall fill a vacancy in the membership for any unexpired term. The commissioners, directors or designees of the following state departments or offices shall serve as ex officio, nonvoting members of the commission: the department; ~~the State Planning Office~~; the Department of Conservation; the Department of Transportation; the Department of Inland Fisheries and Wildlife; the Department of Agriculture, Food and Rural Resources; the Department of Education; and the Bureau of Public Improvements. The Canadian Affairs Coordinator shall also serve as an ex officio, nonvoting member of the commission. A chair and vice-chair of the commission must be elected annually from the appointed membership.

**Sec. C-9. 5 MRSA §13107, sub-§1** is amended to read:

**1. Outcome measures.** Establish outcome measures considered appropriate by public and private practitioners inside and outside of the State in the fields of research and development and economic development. Practitioners in this State must include, but are not limited to, a representative from the University of Maine System, a representative of the targeted technology sectors, a representative of the Executive Department, ~~State Planning Office~~ Governor's Office of Policy and Management and representatives of other state agencies having economic development responsibility;

**Sec. C-10. 5 MRSA §15302, sub-§3, ¶C** is amended to read:

C. The Director of the ~~State Planning Office~~ Governor's Office of Policy and Management or the director's designee is an ex officio nonvoting director.

**Sec. C-11. 7 MRSA §214, sub-§3** is amended to read:

**3. Advisory committee.** The commissioner shall establish an advisory committee to discuss possibilities and review proposals for expanding purchases of local foodstuffs. The commissioner shall invite one or more representatives from each of the following agencies to serve on the advisory committee: the Department of Education; the Department of Marine Resources; the Department of Corrections; the Department of Administrative and Financial Services, Bureau of Purchases; ~~the Executive Department, State Planning Office~~; the Department of Health and Human Services; the University of Maine System; and the Maine Community College System.

**Sec. C-12. 10 MRSA §918, sub-§3** is amended to read:

**3. Ex officio corporators.** Ex officio corporators consist of the heads of the major state departments and agencies and the Chancellor of the University of Maine System. State department and agency heads include the following:

Treasurer of State;

Director of the ~~State Planning~~ Governor's Office of Policy and Management;

Commissioner of Economic and Community Development;

Commissioner of Agriculture, Food and Rural Resources;

Commissioner of Professional and Financial Regulation;

Commissioner of Conservation;

Commissioner of Education;

Commissioner of Environmental Protection;

Commissioner of Administrative and Financial Services;

Commissioner of Health and Human Services;

Commissioner of Inland Fisheries and Wildlife;

Commissioner of Labor;

Commissioner of Marine Resources;

Commissioner of Transportation;

Chief Executive Officer of the Finance Authority of Maine;

Executive Director of the Maine Municipal Bond Bank; and

Executive Director of the Maine State Housing Authority.

**Sec. C-13. 10 MRSA §945-B, sub-§1** is amended to read:

**1. Members.** Members are the private individuals, partnerships, firms, corporations, governmental entities and other organizations who pay dues to the center. For the purposes of this chapter, members may include, but are not limited to, municipal and county government, councils of government, local and area development corporations, regional planning commissions, development districts, state agencies, higher educational

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facilities, including the components of the University of Maine System, the Maine Maritime Academy, private colleges and postsecondary schools and community colleges, and other public or quasi-public entities. The following 8 public organizations are granted membership by virtue of the State's contribution to the organization, are exempt from dues requirements and each is entitled to designate one individual to exercise its voting right: the Department of Agriculture, Food and Rural Resources, ~~the State Planning Office,~~ Governor's Office of Policy and Management, the Finance Authority of Maine, the Department of Labor, the Department of Conservation, the Department of Marine Resources, the Department of Economic and Community Development and the Department of Transportation.

**Sec. C-14. 10 MRSA §1063, sub-§2, ¶J, subparagraph 2** is amended to read:

(2) The Director of the ~~State Planning Office~~ Governor's Office of Policy and Management has reviewed and commented upon the project proposal. The Director of the ~~State Planning Office~~ Governor's Office of Policy and Management shall make comments within 30 days after receipt of a notification and copy of the project proposal from the authority. The authority shall take the comments into consideration in its consideration of the project; and

**Sec. C-15. 12 MRSA §406** is repealed.

**Sec. C-16. 12 MRSA §407** is amended to read:

**§407. Comprehensive river resource management plans**

The ~~State Planning Office~~ Department of Conservation, with assistance from the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Environmental Protection, the Governor's Office of Energy Independence and Security and other state agencies as needed, shall develop, subject to the Maine Administrative Procedure Act, Title 5, chapter 375, a comprehensive river resource management plan for each watershed with a hydropower project licensed under the Federal Power Act or to be licensed under the Federal Power Act. These plans shall provide a basis for state agency comments, recommendations and permitting decisions and shall at a minimum include, as applicable, minimum flows, impoundment level regimes, upstream and downstream fish passage, maintenance of aquatic habitat and habitat productivity, public access and recreational opportunities. These plans shall update, complement and, after public notice, comment, and hearings in the watershed, be adopted as components of the State's comprehensive rivers management plan.

**Sec. C-17. 26 MRSA §2006, sub-§7, ¶C, subparagraph 10** is amended to read:

(10) The Department of Economic and Community Development, the Department of Education, the Department of Health and Human Services, and the Department of Labor ~~and the State Planning Office.~~

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**Sec. C-18. 30-A MRSA §2343** is repealed.

**Sec. C-19. 30-A MRSA §4350** is repealed.

**Sec. C-20. 30-A MRSA §4350-A** is repealed.

**Sec. C-21. 30-A MRSA §6208, sub-§1, ¶A** is repealed.

**Sec. C-22. 36 MRSA §305, sub-§2, ¶C** is amended to read:

C. Establishment of a coordinate grid system in connection with the ~~State Planning Office~~ Department of Conservation for the purpose of uniform identification of property parcels;

**Sec. C-23. 38 MRSA §1803** is repealed.

**Sec. C-24. 38 MRSA §2013, sub-§2, ¶A** is repealed.

**Sec. C-25. 38 MRSA §2123-C** is repealed.

**Sec. C-26. P.L. 2011, chapter 205, section 4** is amended to read:

**Sec. 4. Statewide aquatic restoration plan for stream crossings.** The Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Transportation, in conjunction with Department of Conservation ~~the Executive Department, State Planning Office and~~ other interested stakeholders, shall work collaboratively to develop a statewide aquatic conservation and restoration strategy plan, referred to in this section as "the plan," designed to maintain and restore the ecological health of the State's aquatic ecosystems and focusing on maintaining and restoring dynamic ecological processes responsible for creating and sustaining habitats over broad landscapes as opposed to individual projects or small watersheds. The plan must improve upon best management practices for public and private roads by including consideration of the Department of Transportation's Waterway and Wildlife Crossing Policy and Design Guide, the Maine Interagency Stream Connectivity Work Group's 2010 final report, Maine's Atlantic salmon recovery plan and any other technical, policy and financial information that may help the process. The plan must include, but not be limited to, using scientific data from stakeholders, establishing active restoration priorities, refining existing and proposing additional best management practices, reviewing statutory exemptions and regulatory standards to inform regulatory decision making, establishing performance measures, proposing funding alternatives for passive and active restoration, identifying gaps and overlaps with other pertinent issues such as climate change and flood management and providing for education and outreach. The Department of Environmental Protection, in cooperation with the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Transportation, shall present the final draft of the plan, which may include suggested legislation, to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than January 31,

2013. The committee may report out a bill to the First Regular Session of the 126th Legislature.

**Sec. C-27. Private and Special Laws 1999, chapter 58, §2(7)** is repealed.

**Sec. C-28. Private and Special Laws 1999, chapter 58, §4(1)(B)** is repealed.

#### **Part D**

**Sec. D-1. 5 MRSA §13506, sub-§6, ¶B** is amended to read:

B. Other community planning, technical assistance and training and development assistance programs of the former State Planning Office;

**Sec. D-2. 5 MRSA §13072, sub-§7** is amended to read:

**7. Oversee community development resources and programs.** The director shall oversee the implementation of community development programs to include at a minimum:

A. The Community Development Block Grant Program.

[B.-F.] [repealed by prior legislation]

G. Training and certification for municipal code enforcement officers under chapter 187, subchapter 5 and Title 10, chapter 187.

**Sec. D-3. 10 MRSA §9723, sub-§2** is amended to read:

**2. Training program standards; implementation.** The committee shall direct the training coordinator of the Bureau of Building Codes and Standards, established in Title 25, section 2372, to develop a training program for municipal building officials, local code enforcement officers and 3rd-party inspectors. ~~The Executive Department, State Planning Office,~~ Department of Economic and Community Development, Office of Community Development, pursuant to Title 30-A, section 4451, subsection 3-A, shall implement the training and certification program established under this chapter.

**Sec. D-4. 25 MRSA §2450-A** is amended to read:

#### **§2450-A. Surcharge on plan review fee for Uniform Building Codes and Standards Fund**

In addition to the fees established in section 2450, a surcharge of 4¢ per square foot of occupied space must be levied on the existing fee schedule for new construction, reconstruction, repairs, renovations or new use for the sole purpose of funding the activities of the Technical Building Codes and Standards Board with respect to the Maine Uniform Building and Energy Code, established pursuant to the Title 10, chapter 1103,

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the activities of the Bureau of Building Codes and Standards under chapter 314 and the activities of the ~~Executive Department, State Planning Office~~ Department of Economic and Community Development, Office of Community Development under Title 30-A, section 4451, subsection 3-A, except that the fee for review of a plan for the renovation of a public school, including the fee established under section 2450, may not exceed \$450. Revenue collected from this surcharge must be deposited into the Uniform Building Codes and Standards Fund established by section 2374.

**Sec. D-5. 25 MRSA §2374** is amended to read:

**§2374. Uniform Building Codes and Standards Fund**

The Uniform Building Codes and Standards Fund, referred to in this section as "the fund," is established within the Department of Public Safety to fund the activities of the bureau under this chapter and the activities of the board under Title 10, chapter 1103 and ~~the Executive Department, State Planning Office~~ Department of Economic and Community Development, Office of Community Development under Title 30-A, section 4451, subsection 3-A. Revenue for this fund is provided by the surcharge established by section 2450-A. The Department of Public Safety and ~~the Executive Department, State Planning Office~~ Department of Economic and Community Development, Office of Community Development shall together determine an amount to be transferred annually from the fund for training and certification under Title 30-A, section 4451, subsection 3-A to the Maine Code Enforcement Training and Certification Fund established in Title 30-A, section 4451, subsection 3-B. Any balance of the fund may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal year.

**Sec. D-6. 30-A MRSA §4215, sub-§4** is amended to read:

**4. Fees.** The plumbing inspector shall issue any permit under this section upon receipt and approval of a completed application form as prescribed by the commissioner and payment by the applicant of the fee established by the municipality. The fee must be at least the minimum amount determined by rule of the department. One-quarter of the amount of the minimum fee must be paid through the department to the Treasurer of State to be maintained as a permanent fund and used by the department to implement its subsurface wastewater disposal rules, to administer the receipt and collation of completed permits and to issue plumbing permit labels to the municipality and by ~~the State Planning Office~~ Department of Economic and Community Development, Office of Community Development for training and certification of local plumbing inspectors. The department and ~~the State Planning Office~~ Department of Economic and Community Development, Office of Community Development shall together determine an amount to be transferred annually by the Treasurer of State for training and certification of local plumbing inspectors to the Maine Code Enforcement Training and Certification Fund established in section 4451, subsection 3-B. The remainder of the fee must be paid to the treasurer of the municipality.

**Sec. D-7. 30-A MRSA §4221, sub-§2** is amended to read:

**2. Certification requirements.** A person may not hold the office of plumbing inspector unless currently certified as qualified ~~by the State Planning Office~~ pursuant to section 4451. Certification is effective for a period of 5 years unless sooner revoked or suspended by the District Court as provided for in section 4451.

**Sec. D-8. 30-A MRSA §4451, sub-§1** is amended to read:

**§4451. Training and certification for code enforcement officers**

**1. Certification required; exceptions.** A municipality may not employ any individual to perform the duties of a code enforcement officer who is not certified by the former State Planning Office or the office, except that:

A. An individual other than an individual appointed as a plumbing inspector has 12 months after beginning employment to be trained and certified as provided in this section;

B. Whether or not any extension is available under paragraph A, the office may waive this requirement for up to one year if the certification requirements cannot be met without imposing a hardship on the municipality employing the individual;

C. An individual may be temporarily authorized in writing by the Department of Health and Human Services, Division of Health Engineering to be employed as a plumbing inspector for a period not to exceed 12 months; and

D. An individual whose certification has expired or is about to expire may be temporarily authorized in writing by the office to extend that individual's certification for a period not to exceed 12 months in cases where the necessary training or examination is suspended under subsection 3-B, paragraph E.

**Sec. D-9. 30-A MRSA §4451, sub-§6, first paragraph** is amended to read:

**6. Certification; terms; revocation.** The office shall certify individuals as to their competency to successfully enforce ordinances and other land use regulations and permits granted under those ordinances and regulations and shall issue certificates attesting to the competency of those individuals to act as code enforcement officers. Certificates issued by the former State Planning Office or the office are valid for 6 years unless revoked by the District Court. An examination is not required for recertification of code enforcement officers. The office shall recertify a code enforcement officer if the code enforcement officer successfully completes at least 12 hours of approved training in each area of job responsibility during the 6-year certification period.

**Sec. D-10. 30-A MRSA §4452, sub-§7** is amended to read:

**7. Natural resources protection laws.** A code enforcement officer, authorized by a municipality to represent that municipality in District Court and certified by the former State Planning Office or the Department of Economic and Community Development, Office of Community Development under section 4453 as familiar with court procedures,

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may enforce the provisions of Title 38, section 420-C, Title 38, chapter 3, subchapter 1, article 5-A and Title 38, chapter 13-D by instituting injunctive proceedings or by seeking civil penalties in accordance with Title 38, section 349, subsection 2.

**Sec. D-11. 38 MRSA §480-F, sub-§1, ¶B** is amended to read:

B. Adopted a comprehensive plan and related land use ordinances determined by the former State Planning Office or the Department of Economic and Community Development, Office of Community Development to be consistent with the criteria set forth in Title 30-A, chapter 187, subchapter II and determined by the commissioner to be at least as stringent as criteria set forth in section 480-D;

**Sec. D-12. 38 MRSA §480-F, sub-§1, ¶F** is amended to read:

F. Appointed a code enforcement officer, certified ~~by the Executive Department, State Planning Office~~ pursuant to Title 30-A, section 4451.

**Sec. D-13. Transition provisions; code enforcement training and certification-related matters.** The following provisions apply to the reassignment of duties, responsibilities and activities of the Executive Department, State Planning Office regarding code enforcement training and certification to the Department of Economic and Community Development, Office of Community Development.

1. One authorized position and incumbent personnel in the Executive Department, State Planning Office that is assigned to that office's code enforcement training and certification program is transferred to the Department of Economic and Community Development, Office of Community Development. This employee shall retain her accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

2. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, the State Controller, upon request of the State Budget Officer and with the approval of the Governor, shall transfer to the proper account in the Department of Economic and Community Development, Office of Community Development all accrued expenditures, assets, liabilities, including but not limited to any contractual obligations, balances or appropriations, allocations, transfers, revenues or other available funds in any account or subdivision of an account of the State Planning Office established for funds provided to the office under Title 25, section 2374 and Title 30-A, section 4215, subsection 4. Nothing in this section changes or is intended to change or otherwise affect the purposes or uses for which any funds transferred pursuant to this section may be expended.

### Part E

**Sec. E-1. 5 MRSA §1742, sub-§28** is enacted to read:

**28. State landfills.** To own, design, develop or operate, or contract with private parties to operate, solid waste disposal facilities, as provided in Title 38, chapter 24, subchapter IV.

**Sec. E-2. 5 MRSA §12004-D, sub-§4** is repealed.

**Sec. E-3. 5 MRSA §12006, sub-§3, ¶B** is repealed.

**Sec. E-4. 10 MRSA §1023-G, sub-§ 3, ¶D** is amended to read:

D. The project will contribute to achieving the goals identified in the state waste management and recycling plan adopted under Title 38, chapter 24 and is determined by the ~~State Planning Office~~ Technical and Environmental Assistance Program in the Department of Environmental Protection to be consistent with that plan. Prior to adopting the state waste management and recycling plan, the fund may be used for projects that help achieve the goals identified in the state recycling plan approved under former Title 38, section 1310-M.

**Sec. E-5. 10 MRSA §1041, sub-§18** is amended to read:

**18. Recycling and waste reduction.** Provide financial assistance to businesses for recycling and waste reduction projects that are consistent with the management goals and objectives outlined in the state waste management and recycling plan under Title 38, chapter 24. The ~~State Planning Office~~ Technical and Environmental Assistance Program in the Department of Environmental Protection shall provide assistance to the authority in determining consistency, technical eligibility and merit of application for recycling loans.

**Sec. E-6. 10 MRSA §1063, sub-§2, ¶I-1** is amended to read:

I-1. In the case of recycling and waste reduction projects, the proposed facility is consistent with and will contribute to the management goals and objectives outlined in the state waste management and recycling plan under Title 38, chapter 24 and will reduce the amount of solid or hazardous waste requiring disposal. The ~~State Planning Office~~ Technical and Environmental Assistance Program in the Department of Environmental Protection shall provide assistance to the authority in determining consistency, technical eligibility and merit of applications for assistance under this subchapter.

**Sec. E-7. 38 MRSA §342, sub-§4, ¶B** is amended to read:

B. The Office of Pollution Prevention is established within the department to review department programs and make recommendations to the commissioner on means of integrating pollution prevention into department programs. The Office of Pollution Prevention has the following functions:

- (1) To establish pollution prevention priorities within the department;
- (2) To coordinate department pollution prevention activities with those of other agencies and entities;

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- (3) To ensure that rules, programs and activities of the department are consistent with pollution prevention goals and do not hinder pollution prevention initiatives;
- (4) To provide technical assistance, training and educational activities to assist the general public, governmental entities and the regulated community with development and implementation of pollution prevention programs as funds allow;
- (5) To establish an award program to recognize businesses, local governments, department staff and others that have implemented outstanding or innovative pollution prevention programs, activities or methods;
- (6) To identify opportunities to use the state procurement system to encourage pollution prevention;
- (7) To develop procedures to determine the effectiveness of the department's pollution prevention programs and activities;
- (8) To assume responsibility for the administration and implementation of chapter 26; and
- (9) To administer and evaluate the Technical and Environmental Assistance Program established in section 343-~~B~~ C.

The commissioner shall designate an employee of the department to manage the functions of the Office of Pollution Prevention. That person may provide independent testimony to the Legislature, may make periodic reports to the administrator of the federal Environmental Protection Agency for transmittal to the United States Congress and may address problems or concerns related to the functions of the office, including the investigation of complaints concerning the Technical and Environmental Assistance Program. The commissioner shall also designate an employee of the Technical and Environmental Assistance Program established in section 343-C to manage the solid waste policy functions of the department under section 343-C, subsection 1, paragraph F.

The commissioner shall identify a staff person or persons in each bureau of the department whose primary responsibility is to provide guidance to any party through the permit review process.

**Sec. E-8. 38 MRSA §343-C, sub-§1, ¶D** is amended to read:

D. Ensure that a person engaging in an activity that is subject to regulation by the department is informed of that person's rights and obligations under environmental programs administered by the department, and assist persons in determining the applicable permitting and programmatic requirements of the department; ~~and~~

**Sec. E-9. 38 MRSA §343-C, sub-§1, ¶E** is amended to read:

E. Develop procedures to consider requests from regulated persons to modify work practice or technological compliance methods or the milestones for implementing those methods; and

**Sec. E-10. 38 MRSA §343-C, sub-§1, ¶F** is enacted to read:

- F. Coordinate the development of solid waste management policy including:
- (1) Collecting and analyzing solid waste management and recycling data from all available sources including commercial and municipal entities;
  - (2) Preparing a solid waste management and recycling plan to be submitted to the Governor and the Legislature by January 1, 2013 and every 5 years thereafter; and
  - (3) Providing technical and financial assistance to municipalities in waste reduction and recycling activities.

**Sec. E-11. 38 MRSA §1303-C, sub-§19-C** is repealed.

**Sec. E-12. 38 MRSA §1303-C, sub-§35** is amended to read:

**35. State waste management and recycling plan.** "State waste management and recycling plan" means the plan adopted by the former Maine Waste Management Agency pursuant to chapter 24, subchapter II, ~~and~~ subsequent plans developed by the former State Planning Office pursuant to former Title 5, section 3305, subsection 1, paragraph N and the department's Technical and Environmental Assistance Program pursuant to section 343-C, subsection 1, paragraph F, and may also be referred to as "state plan."

**Sec. E-13. 38 MRSA §1304, sub-§4** is amended to read:

**4. Technical assistance.** The commissioner is authorized to establish guidelines for effective waste management, to provide technical assistance to persons planning, constructing or operating waste facilities, and to conduct applied research activities in the field of waste management, disposal technology and environmental effects, including methods of recycling hazardous or solid waste, sludge or septage. ~~The commissioner shall cooperate with the office in the design and delivery of this assistance.~~

**Sec. E-14. 38 MRSA §1304, sub-§14** is amended to read:

**13. Innovative disposal and utilization.** Recognizing that environmentally suitable sites for waste disposal are in limited supply and represent a critical natural resource, the commissioner may investigate and implement with the approval of the board innovative programs for managing, utilizing and disposing of solid waste. Innovative programs may include agricultural and forest land spreading of wood-derived ash, utilization of ash resulting from combustion of municipal solid waste, paper mill sludges, municipal waste water treatment plant sludges and the composting of yard wastes. ~~The office commissioner~~ shall first determine that the proposed innovative disposal and waste management programs are consistent with the state plan. The commissioner shall review proposed innovative programs for each waste category and shall apply all controls necessary to ensure the protection of the environment and public health consistent with this chapter. The board may adopt application review procedures designed to review individual applications and their individual waste sources with prior approval of classes of disposal or utilization sites. The board shall adopt provisions for municipal notification prior to use of individual utilization sites.

**Sec. E-15. 38 MRSA §1304-B, sub-§4-A, ¶D** is amended to read:

D. A municipality that anticipates that it will be unable to meet its contract obligation to supply a minimum BTU content level or minimum tonnage due to waste reduction or recycling programs and is unable to reach an agreement with the incinerator for the anticipated reduction may request the ~~office~~ department's Technical and Environmental Assistance Program to intercede. The department's Technical and Environmental Assistance Program ~~office~~ shall assist the incinerator in soliciting solid waste to mitigate any anticipated shortfall in minimum BTU content level or minimum tonnage. If no agreement on mitigation of an anticipated shortfall is reached, the terms of the original contract prevail, except as otherwise provided in this chapter.

**Sec. E-16. 38 MRSA §1309** is amended to read:

**§1309. Interstate cooperation**

The Legislature encourages cooperative activities by the department ~~and the office~~ with other states for the improved management of hazardous and solid waste; for improved, and as far as is practicable, uniform state laws relating to the management of hazardous and solid waste; and compacts between this and other states for the improved management of hazardous and solid waste.

**Sec. E-17. 38 MRSA §1310, sub-§1** is amended to read:

**1. Notification.** A person applying for a license under this article or giving notice to the commissioner pursuant to section 485-A shall give, at the same time, written notice ~~to the office and~~ to the municipal officers of the municipality in which the proposed facility may be located and shall publish notice of the application in a newspaper of general circulation in the area.

**Sec. E-18. 38 MRSA §1310-U, first paragraph** is amended to read:

**§1310-U. Municipal ordinances**

Municipalities are prohibited from enacting stricter standards than those contained in this chapter and in the solid waste management rules adopted pursuant to this chapter governing the hydrogeological criteria for siting or designing solid waste disposal facilities or governing the engineering criteria related to waste handling and disposal areas of a solid waste disposal facility. Except as provided in section 2173, municipalities are further prohibited from enacting or applying ordinances that regulate solid waste disposal facilities owned by the ~~office~~ State or a state agency or a regional association.

**Sec. E-19. 38 MRSA §1316-G** is amended to read:

**§1316-G. Tire stockpile abatement program**

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The State shall undertake a program to eliminate tire stockpiles. The program is under the direction of the department with assistance from other agencies including ~~the State Planning Office~~, the Department of the Attorney General, the Maine State Police, the Maine National Guard and the Department of Corrections.

**1. Tire stockpile abatement.** The department shall, as available resources allow:

- A. Estimate the number of tires that are stockpiled and that pose a significant risk to the environment or public health;
- B. Develop a tire stockpile reduction priority plan based on environmental and public health risks;
- C. Seek the cooperation and assistance of private and governmental landowners or tire stockpile operators to reduce the size and number of tire stockpiles;
- D. Assist tire stockpile owners and operators willing to cooperate within the law;
- E. Utilize enforcement powers unilaterally or in conjunction with the Department of the Attorney General or the Maine State Police or other parties to abate health, safety and environmental risks posed by tire stockpiles when voluntary cooperation is not provided by landowners or operators;
- F. Develop or cause to be developed site-specific tire stockpile abatement plans;
- G. Give preference in implementing site-specific tire stockpile abatement activities to the processing of tires for removal and beneficial use while mitigating fire risk;
- H. Educate the public and encourage use of tires based on consideration of environmental and public health impacts as well as market conditions; and
- I. Contract for services to reduce tire stockpiles and abate significant risk to the environment and public health at tire stockpile sites.

**2. Market development.** ~~The State Planning Office~~ department's Technical and Environmental Assistance Program shall, as available resources allow, ~~assist the department generally in implementation of subsection 1. The assistance may include, but is not limited to, encouraging~~ assist with market development to encourage the beneficial reuse of whole tires and processed tires inside or outside the State. ~~The department office~~ may also make recommendations to the Legislature regarding legislation that would enhance the beneficial reuse of waste tires or processed tires.

**3. Business retention and new technology.** The Department of Economic and Community Development, as available resources allow, shall lead a cooperative effort involving the department, ~~the State Planning Office~~ and the Finance Authority of Maine to identify measures the State can take to provide a favorable environment for the retention of businesses assisting in the processing of waste tires. This cooperative effort must also provide for the introduction of viable new technologies to cost-effectively convert waste tires to commodities that can be utilized for beneficial reuse and for energy production.

**Sec. E-20. 38 MRS §1652, sub- §2** is amended to read:

**§1652. State and political subdivision facilities and functions**

**2. Schools.** A school or school administrative district shall comply with the provisions of this section except that a food service providing such services to satellite facilities at the school or school administrative district serviced by central kitchen facilities not at the same location is exempt. A school or school administrative district may submit a request to the ~~Executive Department, State Planning Office~~ department's Technical and Environmental Assistance Program for a 3-year waiver from the provisions of this section. The ~~State Planning Office~~ department's Technical and Environmental Assistance Program may grant the requested waiver as long as:

A. The request includes an explanation of the district's financial hardship and a waste reduction plan. The plan must be designed to achieve the goal of using durable containers in place of disposable containers, unless it is shown that the use of durable containers is not feasible and alternative goals are proposed. The plan must include a proposed capital plan for the acquisition of necessary equipment; and

B. The school or school administrative district has held a public hearing on the proposal to use polystyrene containers and the waste reduction plan.

The ~~State Planning Office~~ department's Technical and Environmental Assistance Program may renew the waiver for 2-year periods if it finds that the school or school administrative district has made reasonable progress toward implementing the waste reduction plan. The ~~State Planning Office~~ department's Technical and Environmental Assistance Program, within available resources, may provide technical and financial assistance to schools and school administrative districts to assist them with meeting the goal of using durable containers.

**Sec. E-21. 38 MRSA §1668** is amended to read:

**§1668. Education program**

The department ~~and the Executive Department, State Planning Office~~ shall implement an education program relating to mercury-added products no later than January 1, 2001. The program must provide information to the public about labeled mercury-added products, the requirements of the law regarding the source separation of waste mercury-added products and collection programs that are available to the public.

**Sec. E-22. 38 MRSA §1669** is amended to read:

**§1669. Technical assistance to municipalities**

The department shall ~~coordinate with the Executive Department, State Planning Office~~ to assist interested municipalities and regional associations in developing collection programs for mercury-added products.

**Sec. E-23. 38 MRSA §1705, sub-9-B** is amended to read:

**9-B. Office.** "Office" means the ~~State Planning Office~~ the Technical and Environmental Assistance Program in the Department of Environmental Protection established by section 343-C.

**Sec. E-24. 38 MRS §1721, sub-§1 is amended to read:**

**1. Application by municipal officers.** The municipal officers of the municipality or municipalities that desire to form a disposal district shall file an application with the office, after notice and hearing in each municipality, on a form or forms prepared by the office, setting forth the name or names of the municipality or municipalities and furnishing such other data as the office determines necessary and proper. The application must contain, but is not limited to, a description of the territory of the proposed district, the name proposed for the district that includes the words "disposal district," a statement showing the existence in that territory of the conditions requisite for the creation of a disposal district as prescribed in section 1702, and other documents and materials required by the office. The ~~office~~ department may adopt rules under this chapter.

**Sec. E-25. 38 MRS §1722, last paragraph is amended to read:**

The office, immediately after making its findings, shall issue a certificate of organization in the name of the disposal district in such form as the office determines. The original certificate must be delivered to the directors on the day that they are directed to organize and a copy of the certificate duly attested by the commissioner ~~executive director of the office~~ must be filed and recorded in the office of the Secretary of State. The issuance of the certificate by the office is conclusive evidence of the lawful organization of the disposal district. The disposal district is not operative until the date set by the directors under section 1726.

**Sec. E-26. 38 MRS §1726-A, sub-§4, ¶A is amended to read:**

A. When the question is submitted prior to the issuance of any indebtedness by the district, the directors may decide that approval of such an assessment article by the voters of a municipality is a condition of each municipality's continuance as a member of the district, in which case the ballots must include a statement that municipalities that fail to vote in favor of the proposed assessment article are no longer members of the district if the board determines that it is feasible or practical to constitute a district as a geographic unit made up of the municipalities voting in favor of the proposed assessment article. The ballots must also state the method to be used to allocate assessments among the member municipalities if the article is approved. The ballot may not contain a specific fractional share of the assessment to be borne by each member municipality. The votes must be counted in each municipality and the affirmative vote of a simple majority of votes cast in each municipality is required to grant the district assessment powers over all of the municipalities in the district. When 3 or more municipalities are involved in the voting and at least 2 have voted to approve the assessment article submitted to them, rejection of the proposed assessment article by one or more municipalities does not defeat the assessment power with respect to the municipalities voting in favor of it if the board determines that it is feasible or practical to constitute a district made up of the municipalities voting in favor of the article as a geographic unit. In that event, the board, immediately after making its findings, shall issue an amended certificate of organization in the name of the district for a district composed only of the municipalities voting in

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favor of the assessment article. Upon the issuance of a certificate the municipalities not approving the assessment article are no longer members of the district. The original of the amended certificate must be delivered to the directors of the district and a copy of the certificate attested by the ~~Director of the State Planning Office~~ commissioner must be filed and recorded in the office of the Secretary of State. The issuance of the certificate by the board is conclusive evidence of the lawful reorganization of the district. If the board determines that it is not feasible or practical to constitute the district as a geographic unit composed of the municipalities voting affirmatively on the article, the district continues to exist with no assessment power and the municipalities that did not approve the assessment article remain members of the district.

**Sec. E-27. 38 MRSA §2101-A, sub-§2** is repealed.

**Sec. E-28. 38 MRSA §2101-A, sub-§3** is enacted to read:

**3. Bureau.** "Bureau" means the Bureau of General Services within the Department of Administrative and Financial Services as authorized pursuant to Title 5, section 1742.

**Sec. E-29. 38 MRSA §2101-A, sub-§4** is enacted to read:

**4. Program.** "Program" means the Technical and Environmental Assistance Program established by section 343-C.

**Sec. E-30. 38 MRSA §2122** is amended to read:

**§2122. State waste management and recycling plan**

The ~~office~~ program shall prepare an analysis of, and a plan for, the management, reduction and recycling of solid waste for the State. The plan must be based on the priorities and recycling goals established in sections 2101 and 2132. The plan must provide guidance and direction to municipalities in planning and implementing waste management and recycling programs at the state, regional and local levels.

**1. Consultation.** In developing the state plan, ~~the office shall consult with the department~~. The ~~office~~ program shall solicit public input and may hold hearings in different regions of the State.

**2. Revisions.** The ~~office~~ program shall revise the analysis by January 1, ~~1998~~ 2014 and every 5 years after that time to incorporate changes in waste generation trends, changes in waste recycling and disposal technologies, development of new waste generating activities and other factors affecting solid waste management as the ~~office~~ program finds appropriate.

**Sec. E-31. 38 MRSA §2124** is amended to read:

**§2124. Reports**

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The ~~office program~~ shall submit the plan and subsequent revisions to the Governor, ~~the department~~ and the joint standing committee of the Legislature having jurisdiction over natural resource matters.

**Sec. E-32. 38 MRSA §2124-A** is amended to read:

**§2124-A. Solid waste generation and disposal capacity report**

By January 1, ~~2008~~ 2013 and annually thereafter, the ~~office program~~ shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters; and the Governor ~~and the department~~ setting forth information on statewide generation of solid waste, statewide recycling rates and available disposal capacity for solid waste.

The report submitted under this section must include an analysis of how changes in available disposal capacity have affected or are likely to affect disposal prices. When the ~~office program~~ determines that a decline in available landfill capacity has generated or has the potential to generate supracompetitive prices, the ~~office program~~ shall include this finding in its report and shall include recommendations for legislative or regulatory changes as necessary.

Beginning on January 1, ~~2009~~ 2013 and every odd-numbered year thereafter, the report submitted under this section must include an analysis of how the rate of fill at each solid waste landfill has affected the expected lifespan of that solid waste landfill. ~~The January 2009 report must also include an analysis of the solid waste disposal needs of the State as of January 1, 2009 for the next 3, 5 and 10 years.~~

Beginning on January 1, ~~2010~~ 2014 and every even-numbered year thereafter, the report submitted under this section must include an analysis of consolidation of ownership in the disposal, collection, recycling and hauling of solid waste.

**Sec. E-33. 38 MRSA §2132** is amended to read:

**§2132. State goals**

**1. State recycling goal.** It is the goal of the State to recycle or compost, by January 1, ~~2009~~14, 50% of the municipal solid waste tonnage generated each year within the State.

**1-A. State waste reduction goal.** It is the goal of the State to reduce the biennial generation of municipal solid waste tonnage by 5% ~~by beginning on~~ by beginning on January 1, 2009 and by an additional 5% every subsequent 2 years. This reduction in solid waste tonnage, after January 1, 2009, is a biennial goal. The baseline for calculating this reduction is the 2003 solid waste generation data gathered by the ~~office~~ former State Planning Office.

**2. Goal revision.** The ~~office program~~ shall recommend revisions, if appropriate, to the state recycling goal and waste reduction goal established in this section. The ~~office~~

program shall submit its recommendations and any implementing legislation to the joint standing committee of the Legislature having jurisdiction over natural resource matters.

**3. Beneficial use of waste.** The use of waste paper, waste plastics, waste wood, including wood from demolition debris, used motor vehicle tires or corrugated cardboard as a fuel in industrial boilers or waste-to-energy facilities for the generation of heat, steam or electricity constitutes recycling only for the purposes of determining whether the goals in subsection 1 are met and for determining municipal progress as provided in section 2133. In order for the use of waste under this subsection to constitute recycling, the ~~office~~ program must determine that there is no reasonably available market in the State for recycling that waste and the wastes must be incinerated as a substitute for, or supplement to, fossil or biomass fuels incinerated in the industrial boiler or waste-to-energy facility.

**4. Reduction in dioxin.** It is the policy of the State to reduce the total release of dioxin and mercury to the environment with the goal of its continued minimization and, where feasible, ultimate elimination.

**Sec. E-34. 38 MRSA §2133** is amended to read:

**§2133. Municipal recycling**

**1. Technical and financial assistance program.**

**1-A. Recycling progress.** Municipalities are not required to meet the state recycling goal in section 2132, but they must demonstrate reasonable progress toward that goal. The ~~office~~ program shall determine reasonable progress.

**2. Recycling feasibility studies.**

**2-A. Technical and financial assistance program.** ~~A program of technical and financial assistance for waste reduction and recycling is established in the office to~~ In accordance with section 343-C, the program shall assist municipalities with managing solid waste. The ~~office~~ program may also provide planning assistance to municipalities and regional organizations for managing municipal solid waste. Planning assistance may include cost and capacity analysis and education and outreach activities. The ~~director~~ program shall administer the program provide assistance pursuant to this subsection in accordance with the waste management hierarchy in section 2101. Preference in allocating resources under this section must be given to municipalities that take advantage of regional economies of scale.

**Sec. E-35. 38 MRSA §2134** is amended to read:

**§2134. Marketing assistance**

The ~~office~~ program shall provide marketing assistance, which may include the following elements:

**1. Collection.**

**2. Incentive program.**

**3. Information clearinghouse.** An information clearinghouse on recycling markets to improve the marketing of materials to be recycled. The office program shall maintain a current list of municipal recycling programs, together with a description of the recyclable materials available through the programs. The office program shall also maintain listings of brokers, handlers, processors, transporters and other persons providing services and potential markets for recyclable materials. The office program shall actively promote the services of the clearinghouse and shall seek to match programs with appropriate recycling businesses. The office program shall make its information on recycling services available to public and private solid waste generators seeking markets or services for recyclable materials. The office program shall make its technical reports and planning documents available to municipalities and regional associations on a timely basis; and

**4. Brokering service.** Provision for marketing and brokering services for materials when municipal and regional association efforts to market the material and the information clearinghouse are inadequate.

**5. Marketing development plan.**

**6. Reuse of waste.**

**Sec. E-36. 38 MRSA §2138, sub-§3** is amended to read:

**3. Certification of tax credit.** The office program, in cooperation with the State Tax Assessor, shall assist in the administration of tax credits for the purchase of machinery and equipment used by businesses in new or expanded waste reduction, reuse or recycling programs pursuant to Title 36, section 5219-C by certifying that the machinery and equipment are eligible for the credit.

[Note: This provision, as codified, contains errors. 36 MRSA §5219-D, which dealt with solid waste, has been repealed; 36 MRSA §5219-C deals with forestry.]

**Sec. E-37. 38 MRSA §2140** is amended to read:

**§2140. Interstate and national initiatives**

The office program may participate in interstate and national initiatives to adopt uniform state laws when practicable, and to enter compacts between the State and other states for the improved management, recycling and reduction of solid waste.

**Sec. E-38. 38 MRSA §2151-A** is amended to read:

**§2151-A. Indemnification**

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The ~~department office~~ shall defend and indemnify any employee of the bureau and office ~~any former employee of the State Planning Office~~, including the director, and any member of the ~~former~~ Facility Siting Board against expenses actually and necessarily incurred by the person in connection with the defense of any action or proceeding in which the person is made party by reason of past or present association with the ~~office bureau or State Planning Office~~ with regard to the powers and duties set forth in this article.

**Sec. E-39. 38 MRSA §2152** is repealed.

**Sec. E-40. 38 MRSA §2153, sub-§1** is amended to read:

**1. Siting criteria.** With regard to state-owned facilities, the ~~office~~ bureau shall administer rules adopted by the former Maine Waste Management Agency, Office of Siting and Disposal Operations and subsequently administered by the former State Planning Office pursuant to this subsection, for siting criteria for solid waste disposal facilities. The ~~office~~ bureau may revise rules as necessary based on the following factors.

**Sec. E-41. 38 MRSA §2154** is amended to read:

**§2154. Site selection**

**1. Initial site screening.** The ~~Facility Siting Board~~ bureau shall conduct a site screening and selection process to identify solid waste disposal capacity sufficient to meet the projected needs identified in the state planning process under section 2123-A, subsection 4. The ~~Facility Siting Board~~ bureau shall consider the need for geographic distribution of facilities to adequately serve all regions of the State. The ~~Facility Siting Board~~ bureau also shall consider in its site selection process the need for landfill capacity to dispose of incinerator ash resulting from the combustion of domestic and commercial solid waste generated within its jurisdiction. Prior to recommending a site, the ~~Facility Siting Board~~ bureau shall hold a public hearing in every municipality or plantation identified in the screening process as a potential site. For potential sites within an unincorporated township, the ~~Facility Siting Board~~ bureau shall hold a public hearing within the vicinity of the proposed site. Prior to submitting a recommended site to the department for review, the ~~Facility Siting Board~~ bureau must find that the recommended site meets the standards adopted under section 2153.

**2. Siting; general.** Subsequent to the siting process under subsection 1, the ~~Facility Siting Board~~ bureau shall identify additional sites as requested by the ~~office~~ program and as capacity needs are identified in the state plan. The ~~Facility Siting Board~~ bureau shall employ the same criteria and considerations employed under subsection 1. The ~~Facility Siting Board~~ bureau shall hold a public hearing in each municipality within which the ~~office~~ bureau may recommend the location of any solid waste disposal or refuse-derived fuel processing facility.

**3. Municipal reimbursement.** At the conclusion of proceedings before the ~~Facility Siting Board~~ bureau conducted pursuant to subsection 1, the bureau ~~office~~ shall

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reimburse a municipality for eligible expenses incurred as a result of that municipality's direct, substantive participation in proceedings before the ~~Facility Siting Board~~ bureau. The amount reimbursed under this subsection may not exceed \$50,000 for any municipality. For the purposes of this subsection, "eligible expenses" has the same meaning as "expenses eligible for reimbursement" under section 1310-S, subsection 4, and any rules adopted by the Board of Environmental Protection pursuant to that section.

**Sec. E-42. 38 MRSA §2155** is amended to read:

**§2155. Notification**

The ~~office~~ bureau shall notify the municipal officers of any municipality within which a waste disposal facility site is recommended under this subchapter of that recommendation. The ~~office~~ bureau shall notify the municipal officers by certified mail within 30 days of making the recommendation. If the proposed site is located within the jurisdiction of the Maine Land Use Regulation Commission, the ~~office~~ bureau shall notify the Maine Land Use Regulation Commission and the county commissioners in lieu of the municipal officers.

**Sec. E-43. 38 MRSA §2156-A** is amended to read:

**§2156-A. Facility development**

**1. Planning for development.** The ~~office~~ bureau, in consultation with the program, shall plan for the development of facilities sufficient to meet needs for municipal solid waste identified in the state plan and any revisions to the plan and to serve all geographic areas of the State. The ~~office~~ bureau, in consultation with the program, may plan for the development of facilities sufficient to meet needs for special waste identified in the state plan and any revisions to the plan and to serve all geographic areas of the State.

**2. Recommendation for development.** When the ~~office~~ bureau finds that 6 years or less of licensed and available disposal capacity for municipal solid waste or special waste remains within the State, the ~~office~~ bureau shall submit a report recommending the construction and operation of a state-owned solid waste disposal facility for the disposal of the type of waste for which capacity is needed to the joint standing committee of the Legislature having jurisdiction over natural resource matters. The report must recommend which state agency or department will own the facility and how it will be operated. The report must also include a review of disposal options outside of the State; a review of existing efforts to reduce, reuse, recycle, compost and incinerate the affected municipal solid waste and special waste streams and the impact of these efforts on capacity requirements; a thorough economic analysis of the facility's expected costs; and commitments from entities to utilize the facility and projected revenues. It is the intent of the Legislature that the facility be operated by a private contractor. A state-owned solid waste disposal facility may not be constructed or operated unless authorized by legislation pursuant to subsection 3.

**3. Authorization for development.** The joint standing committee of the Legislature having jurisdiction over natural resource matters may report out legislation authorizing construction and operation of a state-owned solid waste disposal facility in response to a report submitted pursuant to subsection 2.

**4. Ownership, construction and operation.** The ~~office~~ bureau shall maintain ownership of a site acquired for construction and operation of a state-owned solid waste disposal facility until the Legislature authorizes transfer of the site to another state department or agency, except that this subsection does not prohibit any lease or transfer of the site pursuant to an agreement entered into before the effective date of this subsection or pursuant to any amendment to such an agreement entered into before or after the effective date of this subsection.

**5. Development by others.** This section does not preclude a municipality or regional association from developing and operating solid waste disposal facilities on its own initiative.

**Sec. E-44. 38 MRSA §2159** is amended to read:

**§2159. Real and personal property; right of eminent domain**

The ~~office~~ bureau may acquire and hold real and personal property that it considers necessary for its purposes, is granted the right of eminent domain and, for those purposes, may take and hold, either by exercising its right of eminent domain or by purchase, lease or otherwise, for public use, any land, real estate, easements or interest therein, necessary for constructing, establishing, maintaining, operating and the closure of solid waste disposal facilities.

**Sec. E-45. 38 MRSA §2160, sub-§1** is amended to read:

**1. Notice to owner.** The ~~office~~ bureau shall provide to the owner or owners of record notice of the following:

- A. The determination of the ~~office~~ bureau that it proposes to exercise the right of eminent domain;
- B. A description and scale map of the land or easement to be taken;
- C. The final amount offered for the land or easement to be taken, based on the fair value as estimated by the ~~office~~ bureau; and
- D. Notice of the time and place of the hearing provided in subsection 4.

Notice may be made by personal service in hand by an officer duly qualified to serve civil process in this State or by certified mail, return receipt requested, to the last known address of the owner or owners. If the owner or owners are not known or can not be notified by personal service or certified mail, notice may be given by publication in the manner provided in subsection 4.

**Sec. E-46. 38 MRSA §2160, sub-§1** is amended to read:

**4. Hearing.** The ~~office~~ bureau shall hold a public hearing on the advisability of its proposed exercise of the right of eminent domain. Notice of the hearing must be made by publication in a newspaper of general circulation in the area of the taking and published once a week for 2 successive weeks, the last publication to be at least 2 weeks before the time appointed in the hearing. The hearing notice must include:

- A. The time and place of the hearing;
- B. A description of the land or easement to be taken;
- C. The name of the owners, if known.

**Sec. E-47. 38 MRSA §2161** is amended to read:

**§2161. Condemnation proceedings**

At the time the ~~office~~ bureau sends the notice in section 2160, the ~~office~~ bureau shall file in the county commissioner's office in which the property to be taken is located and cause to be recorded in the registry of deeds in the county plans of the location of all lands, real estate, easements or interest therein, with an appropriate description and the names of the owners thereof, if known. When for any reason the ~~office~~ bureau fails to acquire property that it is authorized to take, which is described in that location, or if the location so recorded is defective and uncertain, it may, at any time, correct and perfect the location and file a new description. In that case, the ~~office~~ bureau is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the ~~office~~ bureau is not liable for any acts that would have been justified if the original taking had been lawful. No entry may be made on any private lands, except to make surveys, until the expiration of 10 days from the filing, whereupon, possession may be had of all the lands, real estate, easements or interests therein and other property and rights as aforesaid to be taken, but title may not vest in the ~~office~~ bureau until payment for the property is made.

**Sec. E-48. 38 MRSA §2162** is amended to read:

**§2162. ~~Office assistance~~ Assistance in regional association siting**

**1. Technical assistance.** Upon request by a regional association, the ~~office~~ bureau may provide technical assistance to that regional association in the establishment of approved waste facilities, including assistance in planning, location, acquisition, development and operation of the site. The regional association shall describe fully the need and justification for the request. The ~~office~~ bureau may request information from the regional association necessary to provide assistance.

**2. Submission of report recommending construction of state-owned facility.** When the ~~office~~ bureau, in consultation with a regional association, finds that disposal capacity is projected to be needed for bulky wastes, construction or demolition waste or land-clearing debris and that the regional association is not able to pursue the siting, establishment and operation of a waste facility, the ~~office~~ bureau may submit a report recommending the construction and operation of a state-owned solid waste disposal

facility that will fulfill the disposal need to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The report must include a review of disposal options outside of the State; a review of existing efforts to reduce, reuse, recycle, compost and incinerate the affected waste streams and the impact of these efforts on capacity requirements; a thorough economic analysis of the facility's expected costs; and commitments from entities to utilize the facility and projected revenues. The joint standing committee of the Legislature having jurisdiction over natural resources matters may report out legislation authorizing the construction and operation of a state-owned solid waste disposal facility in response to a report submitted pursuant to this subsection.

**Sec. E-49. 38 MRSA §2170** is amended to read:

**§2170. Host community benefits; application limited to facilities owned or operated by the ~~office~~ bureau**

This subchapter applies only to solid waste disposal facilities owned or operated by the ~~office~~ bureau. Wherever in this subchapter the term "solid waste disposal facility" or "facility" is used, those terms may be construed only to mean a solid waste disposal facility owned or operated by the ~~office~~ bureau.

**Sec. E-50. 38 MRSA §2170-A** is amended to read:

**§2170-A. Host community agreements**

The provisions of this section apply to a solid waste disposal facility owned or operated by the ~~office~~ bureau.

**Sec. E-51. 38 MRSA §2172** is amended to read:

**§2172 Dispute resolution**

In the event that the ~~office~~ bureau and a host community cannot agree on the terms of a host community agreement pursuant to section 2170-A, the parties shall submit the dispute for resolution in accordance with this section.

**Sec. E-52. 38 MRSA §2172, sub-§2, ¶A** is amended to read:

A. Both the ~~office~~ bureau and the host community will be bound by the decision of the arbitrator.

[Note: Revise header for 38 MRSA §2173 to read: Municipal jurisdiction over ~~office~~ and regional association disposal facilities]

**Sec. E-53. 38 MRSA §2174** is amended to read:

**2. Information.** The host municipality of a solid waste disposal facility has a right to all information from the department and the ~~office~~ bureau, pursuant to Title 1, chapter 13, subchapter I. All information provided under this subsection must be made available to the citizen advisory committee and the public by the host municipality.

**Sec. E-54. 38 MRSA §2175-A** is amended to read:

**§2175-A. Property value offset**

Owners of property, the value of which has been affected by a solid waste disposal facility, are eligible for reimbursement from the ~~office~~ bureau for loss in property value directly attributable to the construction and operation of the facility. The ~~office~~ bureau shall adopt rules to establish the formula and procedure for reimbursement, including, without limitation, definition of the impact area, a process for establishing baseline real estate values, a time frame within which the property value offset program will be in effect and an accounting of real estate trends in the area.

**Sec. E-55. 38 MRSA §2175-B** is amended to read:

**§2175-B. Payment in lieu of taxes**

The ~~office~~ bureau shall annually pay a municipality an amount in lieu of taxes equal to the amount of property taxes on a solid waste disposal facility owned or operated by the ~~office~~ bureau not paid to that municipality during the previous calendar year. In the case of an unorganized territory, the ~~office~~ bureau shall annually pay the amount to the State Tax Assessor who shall deposit that amount in the Unorganized Territory Education and Services Fund established in Title 36, chapter 115. If the ~~office~~ bureau disagrees with the amount determined to be due in lieu of taxes under this section, it may appeal to the State Board of Property Tax Review as provided in Title 36, section 271.

**Sec. E-56. 38 MRSA §2176** is amended to read:

**§2176. Impact payments**

In addition to payment in lieu of taxes provided in section 2175-B, the ~~office~~ bureau shall make impact payments to a municipality in which a solid waste disposal facility is located or, in the case of an unorganized territory, to the State Tax Assessor upon request by the community involved or by the State Tax Assessor. The ~~office~~ bureau shall base its impact payments on measurable criteria including, without limitation:

- 1. Roads.** Improvement, maintenance and repair of local roads directly affected by traffic to and from the facility;
- 2. Emergency response.** Development and maintenance of adequate local emergency response capacity;

**3. Monitoring.** Financial support for on-site, municipally employed personnel or for other means determined necessary to enable the municipality to monitor the facility's compliance with state and local requirements; and

**4. Other issues.** Other issues determined on a case-specific basis by the applicant and ~~office~~ bureau to be appropriate given the nature of the proposed facility.

**Sec. E-57. 38 MRS §2177** is amended to read:

**§2177. Water supply monitoring and protection**

Upon written request from persons owning land contiguous to a solid waste disposal facility, the ~~office~~ bureau shall have quarterly sampling and analysis conducted of private water supplies used by the requestors for drinking water. The sampling and analysis must be conducted in a manner specified by and that meets criteria developed by the department.

If a facility adversely affects a public or private water supply by pollution, degradation, diminution or other means that result in a violation of the state drinking water standards as determined by the commissioner, the ~~office~~ bureau shall restore the affected supply at no cost to the consumer or replace the affected supply with an alternative source of water that is of like quantity and quality to the original supply at no cost to the consumer.

**1. Extent of analysis.** Water supplies must be analyzed for all parameters or chemical constituents determined by the commissioner to be indicative of typical contamination from solid waste disposal facilities. The laboratory performing the sampling and analysis shall provide written copies of sample results to the ~~office~~ bureau, the landowner and to the commissioner.

**2. Additional sampling required.** If the analysis indicates possible contamination from a solid waste disposal facility, the commissioner shall conduct, or require the ~~office~~ bureau to conduct, additional sampling and analysis to determine more precisely the nature, extent and source of contamination. The commissioner shall, if necessary, require this sampling beyond the boundaries of the contiguous property.

**3. Written notice of rights.** On or before December 1, 1989, for permits issued under this chapter prior to October 1, 1989, and at or before the time of permit issuance for permits issued under this chapter after October 1, 1989, the ~~office~~ bureau shall provide owners of contiguous land with written notice of their rights under this section on a form prepared by the commissioner.

**Sec. E-58. 38 MRS §2191** is amended to read:

**§2191. Fees**

The ~~office~~ bureau shall establish reasonable fees for waste disposal services provided by the ~~office~~ bureau.

**Sec. E-59. 38 MRS §2192** is amended to read:

**§2192. Purposes of the fees**

The fees charged to users of ~~office-owned~~ state-owned facilities and established by the ~~office~~ bureau under this article, by rule, provide revenue for the following purposes:

**1. Current expenses.** To pay the current expenses, either incurred directly or through contractual agreements with another party or parties, for operating and maintaining a facility or delivering a service and to provide for normal maintenance and replacement of equipment. Current expenses also include costs incurred under subchapter V;

**2. Interest.** To provide for the payment of interest on the indebtedness created or assumed by the ~~office~~ bureau;

**3. Indebtedness.** To provide an annual sum equal to not less than 2% nor more than 10% of the term indebtedness represented by the issuance of bonds created or assumed by the ~~office~~ bureau, which sum must be turned into a sinking fund and there maintained to provide for the extinguishment of term indebtedness. The money set aside in this sinking fund must be devoted to the retirement of the term obligations of the ~~office~~ bureau and may be invested in such securities as savings banks in the State are allowed to hold;

**4. Principal payments.** To provide for annual principal payments on serial indebtedness created or assumed by the ~~office~~ bureau;

**5. Contingency reserve fund allowance.** To provide for a contingency reserve fund allowance by providing rates to reflect up to a 5% addition to yearly revenues over that required to operate the facility;

**6. Closing reserve fund.** To provide for a closing and monitoring reserve fund by providing rates which, over the expected life span of the facility including the post-closure monitoring period, will generate the amount determined to be necessary by the department in its licensing process under chapter 13; and

**7. Compliance costs.** To provide for the costs associated with licensing, compliance and enforcement efforts of the department.

**Sec. E-60. 38 MRS §2193** is amended to read:

**§2193. Host municipality fees**

The ~~office~~ bureau may set fees under this article for the host municipality at a level lower than the fees charged to other municipalities or users, provided that the lower fees are set in a manner consistent with the rules promulgated by the ~~office~~ bureau.

**Sec. E-61. 38 MRS §2201** is amended to read:

**§2201. Maine Solid Waste Management Fund established**

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The Maine Solid Waste Management Fund, referred to in this section as the "fund," is established as a nonlapsing fund to support programs administered by the Department of Administrative and Financial Services, through its Bureau of General Services State Planning Office and the Department of Environmental Protection. The fund must be segregated into 2 subsidiary accounts. The first subsidiary account, called operations, receives all fees established and received under article 1. The 2nd subsidiary account, called administration, receives all fees established under this article and under Title 36, chapter 719 and all funds recovered by the department as reimbursement for departmental expenses incurred to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste.

Money in the fund not currently needed to meet the obligations of the ~~office~~ department or bureau must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on these investments must be credited to the fund.

Funds related to administration may be expended only in accordance with allocations approved by the Legislature for administrative expenses directly related to the ~~office's~~ bureau's and the department's programs, including actions by the department necessary to abate threats to public health, safety and welfare posed by the disposal of solid waste. Funds related to operations may be expended only in accordance with allocations approved by the Legislature and solely for the development and operation of publicly owned facilities owned or approved by the ~~office~~ bureau and for the repayment of any obligations of the ~~office~~ bureau incurred under article 3. These allocations must be based on estimates of the actual costs necessary for the ~~office~~ bureau and the department to administer their programs, to provide financial assistance to regional associations and to provide other financial assistance necessary to accomplish the purposes of this chapter. Beginning in the fiscal year ending on June 30, 1991 and thereafter, the fund must annually transfer to the General Fund an amount necessary to reimburse the costs of the Bureau of Revenue Services incurred in the administration of Title 36, chapter 719. Allowable expenditures include "Personal Services," "All Other" and "Capital Expenditures" associated with all ~~office~~ bureau activities other than those included in the operations account.

**Sec. E-62. 38 MRSA §2232** is amended to read:

**§2232. Reporting**

An incineration facility shall submit an annual report to the ~~office~~ department's Technical and Environmental Assistance Program no later than 90 days after the end of the incineration facility's fiscal year. For reasonable cause shown and upon written application by an incineration facility, the ~~office~~ department's Technical and Environmental Assistance Program may grant an extension of the 90-day period. The report must be certified by an appropriate executive officer of the incineration facility as being complete and accurate. The ~~office~~ department's Technical and Environmental

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Assistance Program may prescribe the form of the annual report and the number of copies that must be submitted. The report must include the following information:

**1. Waste.** The total weight in tons of all solid waste received by the incineration facility in the last completed fiscal year and each month of that year and a breakdown of these totals according to the waste sources;

**2. Tipping fee.** A schedule of various tipping fees imposed by the incineration facility on the incineration facility's municipal and commercial customers over the last completed fiscal year including an identification of all changes in those fees and a similar schedule of fees to be imposed on municipal and commercial customers for the next fiscal year. The tipping fees for commercial customers must be set out separately by each rate charged to each category of commercial customer;

**3. Revenue.** The total revenue of the incineration facility from all sources for the last completed fiscal year and each month of that year. Revenue figures must identify revenues from each revenue source, including, but not limited to, tipping fees and any revenue from sales of electricity to transmission and distribution utilities;

**4. Expenditures.** The total expenditures of the incineration facility during the last completed fiscal year including details of those expenditures as required by the ~~office~~ department's Technical and Environmental Assistance Program; and

**5. Other information.** Any other information required by the ~~office~~ department's Technical and Environmental Assistance Program.

**Sec. E-63. 38 MRS §2235** is amended to read:

**§2235. Use of files**

The ~~office~~ department's Technical and Environmental Assistance Program shall keep on file for public inspection and use all reports submitted under this subchapter.

**Sec. E-64. 38 MRS §2236** is amended to read:

**§2236. Limitation**

Nothing in this subchapter may be construed to create or expand any ~~office~~ authority of the department's Technical and Environmental Assistance Program over financial, organizational or rate regulation of incineration facilities.

**Sec. E-65. Transition provisions; waste management and recycling-related matters.**

The following provisions apply to the reassignment of waste management and recycling-related duties, responsibilities and activities of the Executive Department, State Planning Office to the Departments of Environmental Protection, Administrative and Financial Services, Bureau of General Services, and Economic and Community Development, Office of Community Development.

1. One authorized, unclassified position and incumbent personnel in the Executive Department, State Planning Office assigned to that office's waste management

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and recycling program is transferred to the Department of Economic and Community Development, Office of Community Development. This employee shall retain his accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits. The Department of Economic and Community Development, Office of Community Development and the Department of Administrative and Financial Services, Bureau of General Services shall enter into a memorandum of agreement under which personnel transferred to the Office of Community Development by this section shall assist the Bureau of General Services in the performance of its functions and duties under Title 38, chapter 24.

2. All rights, duties, authorities, responsibilities, and related assets and liabilities, if any, assigned to the Executive Department, State Planning Office pursuant to Resolves 2003, chapter 93 and Resolves 2011, chapter 90, are assigned to and shall be exercised by the Department of Administrative and Financial Services, Bureau of General Services.

3. All real property acquired by the Executive Department, State Planning Office pursuant to Public Law 1995, chapter 464, Resolves 2003, chapter 93, and Resolves 2011, chapter 90, is transferred to the Department of Administrative and Financial Services, Bureau of General Services.

4. Notwithstanding any other provision of law, the Department of Environmental Protection shall approve transfer of all licenses, permits and other authorizations issued by the department to the Executive Department, State Planning Office for construction and operation of state-owned waste disposal facilities referenced in section 2 to the Department of Administrative and Financial Services, Bureau of General Services. Within 60 days of the effective date of this section, the Department of Administrative and Financial Services, Bureau of General Services shall submit to the Department of Environmental Protection applications for transfer of all licenses, permits and other authorizations for the state-owned solid waste disposal facilities referenced in section 2. Notwithstanding any other provision of law, until DEP has approved the transfers required by this section, the Department of Administrative and Financial Services, Bureau of General Services shall be deemed to be the licensee or permittee of all licenses, permits and other authorizations for the state-owned solid waste disposal facilities referenced in section 2.

## **Part F**

**Sec. F-1. 37-B MRSA §704, final paragraph** is enacted to read:

The director shall oversee the agency's activities as state coordinating agency for the National Flood Insurance Program pursuant to Title 44, Code of Federal Regulations, Part 60.

**Sec. F-2. 37-B MRSA §709** is enacted to read:

**§709. Floodplain management.** The agency shall serve as the state coordinating agency for the National Flood Insurance Program pursuant to Title 44, Code of Federal Regulations, Part 60, and in that capacity shall oversee delivery of technical assistance and resources to municipalities for the purpose of floodplain management activities, and shall administer the State Floodplain Mapping Fund established under section 746.

**Sec. F-3. 37-B MRSA §746** is enacted to read:

**§746. State Floodplain Mapping Fund**

**1. Fund established.** The State Floodplain Mapping Fund, referred to in this section as "the fund," is established as a dedicated non-lapsing fund administered by the agency for the purpose of providing funds for the mapping of floodplains using light detection and ranging technology in the State.

**2. Sources of money.** The fund consists of any money received from the following sources:

A. Contributions from private sources;

B. Federal funds and awards;

C. The proceeds of any bonds issued for the purposes for which the fund is established; and

D. Any other funds received in support of the purposes for which the fund is established.

**3. Disbursements from the fund.** The agency shall apply the money in the fund toward the support of floodplain mapping in the state, including, but not limited to, the acquisition of light detection and ranging elevation data and the processing and production of floodplain maps.

**Sec. F-4. 37-B MRSA §1112** is amended to read:

**§1112. Administration**

The department shall administer this chapter. In carrying out the provisions of this chapter, the department shall consult as appropriate with other state agencies, including the Department of Conservation, the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Public Safety, the Department of Transportation, and the Maine Land Use Regulation Commission ~~and the State Planning Office~~, for their aid and assistance.

**Sec. F-5. 37-B MRSA §1119, sub-§3** is amended to read:

**3. Review conference.** After receiving the inspector's report and prior to issuing any dam safety order, the commissioner shall hold a review conference and shall invite the emergency management director of the county in which the dam is located to the review conference as well as representatives from appropriate state agencies which may include the Department of Conservation, the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Public Safety, the Department of Transportation, and the Maine Land Use Regulation Commission ~~and the State Planning Office~~, to discuss the public safety, environmental, economic and other concerns relating to the dam and the necessary remedial measures under consideration. A state dam inspector shall attend the review conference. The commissioner shall maintain a written record of the conference and shall make a copy of this record available to all parties participating in the conference.

**Sec. F-6. 37-B MRSA §1131, sub-§2, ¶G** is repealed.

**Sec. F-7. Transition provisions; floodplain management-related matters.** The following provisions apply to the reassignment of floodplain management-related duties, responsibilities and activities of the Executive Department, State Planning Office to the Department of Defense, Veterans, and Emergency Management, Maine Emergency Management Agency.

1. The Governor shall, pursuant to the Maine Revised Statutes, Title 37-B, section 709 and Title 44, Code of Federal Regulations, Part 60, designate the Maine Emergency Management Agency the state coordinating agency for purposes of the National Flood Insurance Program.

2. Three authorized positions and incumbent personnel in the Executive Department, State Planning Office assigned to that office's floodplain management program are transferred to the Department of Defense, Veterans, and Emergency Management, Maine Emergency Management Agency. Those employees shall retain their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

3. Notwithstanding the provisions of the Maine Revised Statutes, Title 5 and except as otherwise provided in subsection 4, the State Controller, upon request of the State Budget Officer and with the approval of the Governor, shall transfer to the proper account in the Department of Defense, Veterans, and Emergency Management, Maine Emergency Management Agency all accrued expenditures, assets, liabilities, including but not limited to any contractual obligations, balances or appropriations, allocations, transfers, revenues or other available funds in any account or subdivision of an account of the State Planning Office established for administration of floodplain management-related grant funds from the Federal Emergency Management Agency. Nothing in this section changes or is intended to change or otherwise affect the purposes or uses for which any funds transferred pursuant to this section may be expended.

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4. On the effective date of this section, the Treasurer of State shall transfer any unexpended and unencumbered balance in the Floodplain Mapping Fund established by the former Maine Revised Statutes, Title 5, section 3307-G, to the State Floodplain Mapping Fund established by the Maine Revised Statutes, Title 37-B, section 746.

**Part G**

**Sec. G-1. 5 MRSA §6204, sub-§1** is amended to read:

**1. Composition.** The board consists of 11 members, ~~5~~ 6 ~~seven~~ who are private citizens and ~~4~~ four who are permanent members. The permanent members are the Commissioner of Conservation; the Commissioner of Inland Fisheries and Wildlife; the Commissioner of Marine Resources; and the Commissioner of Agriculture, Food and Rural Resources; ~~and the Director of the State Planning Office.~~

**Sec. G-2. 5 MRSA §6204, sub-§6** is amended to read:

**6. Assistance.** The Department of Conservation; the Department of Inland Fisheries and Wildlife; the Department of Transportation; the Department of Agriculture, Food and Rural Resources; ~~the State Planning Office;~~ and all other state agencies shall provide staff support and assistance considered necessary by the board to fulfill the objectives of this chapter. If agency assistance is not available, consultants may be hired from the proceeds of either the Land for Maine's Future Fund or the Public Access to Maine Waters Fund to assist the board in carrying out its responsibilities.

**Sec. G-3. 12 MRSA §544, sub-§3, paragraph G** is enacted to read:

G. The Natural Areas Program shall provide staff assistance to support the Land for Maine's Future Board established under Title 5, chapter 353.

**Sec. G-4. 12 MRSA §6072, sub-§7-A, ¶F** is amended to read:

F. The lease does not unreasonably interfere with public use or enjoyment within 1,000 feet of a beach, park or docking facility owned by the Federal Government, the State Government or a municipal governmental agency or certain conserved lands. For purposes of this paragraph, "conserved lands" means land in which fee ownership has been acquired by the municipal government, State Government or Federal Government in order to protect the important ecological, recreational, scenic, cultural or historic attributes of that property.

The ~~Executive Department, State Planning Office~~ Department of Conservation shall maintain a list of conserved lands. The commissioner shall request this information from the ~~State Planning Office~~ Department of Conservation prior to holding a preapplication proceeding.

**Sec. G-5. 12 MRSA §6673, sub-§2-A** is amended to read:

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**2-A. Decision.** In evaluating a proposed municipal shellfish aquaculture permit, a municipal officer shall take into consideration the number and density of permits and leases in the area and may issue the permit if the municipal officer finds the proposed project meets the following criteria.

- A. The permit conforms to the municipality's shellfish conservation program.
- B. The permit will not cause the total area under all municipal shellfish aquaculture permits in the municipality to exceed 1/4 of the entire municipal intertidal zone that is open to the taking of shellfish.
- C. Issuing the permit is in the best interests of the municipality.
- D. The permit will not unreasonably interfere with ingress and egress of riparian owners.
- E. The permit will not unreasonably interfere with navigation.
- F. The permit will not unreasonably interfere with fishing or other uses of the area. For purposes of this paragraph, "fishing" includes public access to a redeemable shellfish resource, as defined by the department, for the purpose of harvesting, provided that the resource is commercially significant and is subject to a pollution abatement plan that predates the permit application, that includes verifiable activities in the process of implementation and that is reasonably expected to result in the opening of the area to the taking of shellfish within 3 years.
- G. The permit will not unreasonably interfere with significant wildlife habitat and marine habitat or with the ability of the site affected by the permit and surrounding marine and upland areas to support existing ecologically significant flora and fauna.
- H. The applicant has demonstrated that there is an available source of organisms to be cultured for the site affected by the permit.
- I. The permit does not unreasonably interfere with public use or enjoyment within 1,000 feet of a beach, park or docking facility owned by the Federal Government, the State Government or a municipal government or conserved lands. For purposes of this paragraph, "conserved lands" means land in which fee ownership has been acquired by the municipal government, State Government or Federal Government in order to protect the important ecological, recreational, scenic, cultural or historic attributes of that property.

A municipality shall review the ~~Executive Department, State Planning Office's~~ Department of Conservation's list of conserved lands compiled pursuant to section 6072, subsection 7-A, paragraph F prior to issuing a municipal shellfish aquaculture permit.

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A municipality shall put its findings on each of the criteria listed in this subsection in writing and make those findings available to the public.

**Sec. G-6. 33 MRSA §132, sub-§4** is amended to read:

**4. Filing.** A working waterfront covenant must be recorded in the County Registry of Deeds, and a copy of the covenant must be filed with the ~~Executive Department, State Planning Office~~ Department of Conservation together with a map showing with specificity the location of the affected real estate on the form or forms that the ~~State Planning Office~~ department requires.

**Sec. G-7. 33 MRSA §479-C** is amended to read:

**§479-C. Conservation easement registry**

A holder of a conservation easement that is organized or doing business in the State shall annually report to the ~~Executive Department, State Planning Office~~ Department of Conservation the book and page number at the registry of deeds for each conservation easement that it holds, the municipality and approximate number of acres protected under each easement and such other information as the ~~State Planning Office~~ Department of Conservation determines necessary to fulfill the purposes of this subchapter. The filing must be made by a date and on forms established by the ~~State Planning Office~~ Department of Conservation to avoid duplicative filings when possible and otherwise reduce administrative burdens. The annual filing must be accompanied by a \$30 fee. The ~~State Planning Office~~ Department of Conservation shall maintain a permanent record of the registration and report to the Attorney General any failure of a holder disclosed by the filing or otherwise known to the ~~State Planning Office~~ Department of Conservation. The fees established under this section must be held by the ~~State Planning Office~~ Department of Conservation in a nonlapsing, special account to defray the costs of maintaining the registry and carrying out its duties under this section.

**Sec. G-8. 36 MRSA §305, sub-§6** is amended to read:

**6. Report on changes in land ownership.** On or before September 1st of each year, report to the Commissioner of Conservation, the Commissioner of Inland Fisheries and Wildlife, ~~the Director of the State Planning Office within the Executive Department~~ and the joint standing committee of the Legislature having jurisdiction over public lands on the transfer in ownership of parcels of land 10,000 acres or greater within the unorganized territory of the State. Using information maintained by the State Tax Assessor under section 1602 and section 4641-D, the bureau shall provide information for each transfer that includes:

- A. Name of the seller;
- B. Name of the buyer;
- C. Number of acres transferred;
- D. Classification of land;
- E. Location by township and county;

- F. Sale price; and
- G. A brief description of the property.

**Sec. G-9. 36 MRSA §1140-B, sub-§1** is amended to read:

**§1140-B. Analysis and report**

**1. Analysis.** The State Tax Assessor, in consultation with municipal assessors, the ~~director of the Land for Maine's Future Program within the Executive Department, State Planning Office~~ commissioner of the Department of Conservation or the commissioner's designee, representatives of working waterfront organizations and other interested parties, shall collect and analyze the sales prices of all actual sales that occur in the State of waterfront land that is subject to restrictions on that land's use that are legally enforceable and prohibit or substantially restrict development that is not commercial fishing activity or commercial activity that is the functional equivalent of commercial fishing activity.

**Sec. G-10. Transition provisions; Land for Maine's Future Board-related matters.** The following provisions apply to the reassignment of duties, responsibilities and activities of the Executive Department, State Planning Office related to the Land for Maine's Future Board established in the Maine Revised Statutes, Title 5, chapter 353, to the Department of Conservation, Natural Areas Program established by the Maine Revised Statutes, Title 12, section 544.

1. Three authorized positions and incumbent personnel in the Executive Department, State Planning Office assigned to provide staff assistance to the Land for Maine's Future Board are transferred to the Department of Conservation, Natural Areas Program established by the Maine Revised Statutes, Title 5, section 544. Those employees shall retain their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

2. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, the State Controller, upon request of the State Budget Officer and with the approval of the Governor, shall transfer from the State Planning Office to the proper account in the Department of Conservation all accrued expenditures, assets, liabilities, including but not limited to any contractual obligations, balances or appropriations, allocations, transfers, revenues or other available funds in any account or subdivision of any account of the Land for Maine's Future Fund, established by the Maine Revised Statutes, Title 5, section 6203. Nothing in this section changes or is intended to change or otherwise affect the purposes or uses for which any funds transferred pursuant to this section may be expended.

**Part H**

**Sec. H-1. 5 MRSA §298, sub-§1** is repealed and replaced as follows:

**1. Commissioner of Conservation.** The commissioner of the Department of Conservation, or the commissioner's designee;

**Sec. H-2. 5 MRSA §13056-E, sub-§4** is amended to read:

**4. Coordination.** The department shall coordinate the grants made under this section with community assistance loans and grants administered by the department and with other state assistance programs designed to accomplish similar objectives, including those administered by the Department of Education, the Department of Transportation, ~~the Executive Department, State Planning Office,~~ the Finance Authority of Maine, the Maine State Housing Authority, the Maine Historic Preservation Commission, the Department of Administrative and Financial Services, the Department of Conservation and the Department of Environmental Protection.

**Sec. H-3. 5 MRSA §13058, sub-§19** is amended to read:

**19. Coordinate assessment of transportation needs related to economic development projects.** The commissioner shall coordinate the activities of the department, ~~the State Planning Office within the Executive Department,~~ the Department of Conservation, the Department of Transportation and regional planning and economic development organizations to ensure that the location of rail lines, potential use of passenger and freight rail and costs of transportation improvements related to development are considered during initial planning and locating of projects reviewed by the commissioner in administering economic development programs under this chapter.

**Sec. H-4. 5 MRSA §13073-B** is enacted to read:

**§3307-F. Maine Downtown Center**

**1. Establishment.** The Maine Downtown Center, referred to in this section as the "center," is established to encourage downtown revitalization in the State.

**2. Purpose.** The center serves the following functions:

A. To advocate for downtown revitalization;

B. To promote awareness about the importance of vital downtowns;

C. To serve as a clearinghouse for information relating to downtown development;

and

D. To provide training and technical assistance to communities that demonstrate a willingness and ability to revitalize their downtowns.

**3. Collaboration.** The Department of Conservation shall work collaboratively with the Commissioner of Economic and Community Development, Maine Development Foundation and other state agencies to coordinate the programs of the center.

**4. Funding.** The center shall develop a plan for the ongoing funding of the center.

**5. Definition.** For the purposes of this section, "downtown" has the same meaning as in Title 30-A, section 4301, subsection 5-A.

**Sec. H-5. 12 MRSA §212, sub-§3** is amended to read:

**3. Interdepartmental cooperation.** The Department of Agriculture, Food and Rural Resources shall consult with other state resource agencies ~~and the State Planning Office~~ in setting priorities of soils mapping and the publication of interim soils reports.

**Sec. H-6. 12 MRSA §685-C sub-§1, ¶B** is repealed.

**Sec. H-7. 12 MRSA §1847, sub-§2** is amended to read:

**2. Management plans.** The director shall prepare, revise from time to time and maintain a comprehensive management plan for the management of the public reserved lands in accordance with the guidelines in this subchapter. The plan must provide for a flexible and practical approach to the coordinated management of the public reserved lands. In preparing, revising and maintaining such a management plan the director, to the extent practicable, shall compile and maintain an adequate inventory of the public reserved lands, including not only the timber on those lands but also the other multiple use values for which the public reserved lands are managed. In addition, the director shall consider all criteria listed in section 1858 for the location of public reserved lands in developing the management plan. The director is entitled to the full cooperation of the Bureau of Geology ~~and~~ Natural Areas and Coastal Resources Management, the Department of Inland Fisheries and Wildlife, and the Maine Land Use Regulation Commission ~~and the State Planning Office~~ in compiling and maintaining the inventory of the public reserved lands. The director shall consult with those agencies as well as other appropriate state agencies in the preparation and maintenance of the comprehensive management plan for the public reserved lands. The plan must provide for the demonstration of appropriate management practices that will enhance the timber, wildlife, recreation, economic and other values of the lands. All management of the public reserved lands, to the extent practicable, must be in accordance with this management plan when prepared.

Within the context of the comprehensive management plan, the commissioner, after adequate opportunity for public review and comment, shall adopt a specific action plan for each unit of the public reserved lands system. Each action plan must include consideration of the related systems of silviculture and regeneration of forest resources and must provide for outdoor recreation including remote, undeveloped areas, timber, watershed protection, wildlife and fish. The commissioner shall provide adequate opportunity for public review and comment on any substantial revision of an action plan. Management of the public reserved lands before the action plans are completed must be in accordance with all other provisions of this section.

**Sec. H-8. 23 MRSA §73, sub-§4** is amended to read:

**4. Rulemaking.** The Department of Transportation shall adopt a rule within one year of the effective date of this Act, in coordination with the Maine Turnpike Authority and state agencies including the Department of Economic and Community Development, ~~the State Planning Office~~ the Department of Conservation and the Department of Environmental Protection, to implement the statewide comprehensive transportation policy. The rule must incorporate a public participation process that provides municipalities and other political subdivisions of the State and members of the public notice and opportunity to comment on transportation planning decisions, capital investment decisions, project decisions and compliance with the statewide transportation policy.

The Department of Transportation shall adopt a rule, in coordination with the ~~State Planning Office~~ Department of Conservation, that establishes linkage between the planning processes outlined in this section and those promoted by Title 30-A, chapter 187, subchapter 2 and that promotes investment incentives for communities that adopt and implement land use plans that minimize over-reliance on the state highway network. This rule is a major substantive rule as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. H-9. 23 MRSA §7105, sub-§3, ¶A** is amended to read:

A. Before dismantling any track that results in a cessation of rail service upon all or part of a railroad line, or offering any railroad property for sale, or upon the abandonment of service along all or a portion of a railroad line, the department shall be given the first option to lease or purchase, on just and reasonable terms, the railroad line, any part of the railroad line or other property. In the event that a lease is negotiated for the rights-of-way, the department shall consult with municipal officials and officers in the municipalities affected by the abandonment of service along the line to determine the need for preserving the rights-of-way along the abandoned portion of the line for rail transportation. If the department finds that the welfare of the State would be significantly and adversely affected by the loss of the line for railroad transportation purposes, the department shall seek to negotiate the purchase of the abandoned portion of the line. In making this determination, the department shall consider, among other criteria deemed significant by the department, future economic development activities and opportunities in the area served by the abandoned railroad service. In addition, the department shall consult with the Department of Economic and Community Development, and the Department of Conservation ~~and the State Planning Office~~ in making the determination required in this section.

**Sec. H-10. 30-A MRSA §2303** is amended to read:

**§2303. Lead agency**

**1. ~~State Planning Office~~ Department of Conservation.** ~~The State Planning Office~~ Department of Conservation shall serve as the coordinator between regional councils and the State ~~The State Planning Office~~, shall administer state funds supporting regional council tasks and may provide technical assistance to regional councils as appropriate.

**2. Rulemaking.** The ~~Director of the State Planning Office~~ Department of Conservation may adopt rules to create standardized contracts and administrative and audit requirements for state funds received by regional councils.

**Sec. H-11. 30-A MRSA §4301, sub-§13** is amended to read:

**13. Office.** "Office" means the ~~State Planning Office~~ Department of Conservation.

**Sec. H-12. 30-A MRSA §4331, first ¶** is amended to read:

**§4331. Evaluation process**

The office shall conduct an ongoing evaluation process to determine the effectiveness of state, regional and local efforts under this chapter to achieve the purposes and goals of this chapter. ~~Working through the Land and Water Resources Council, the~~ The office shall seek the assistance of other state agencies. If requested, all state agencies shall render assistance to the office in this effort.

**Sec. H-13. 30-A MRSA §4331, sub-§5** is amended to read:

**5. Periodic reports.** Beginning on January 1, ~~1995~~ 2015, the office shall report in writing on the results of its evaluation process every 4 years and more frequently if necessary. The office shall submit its report to the joint standing committee of the Legislature having jurisdiction over natural resources matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

**Sec. H-14. 30-A MRSA §4346, sub-§5** is amended to read:

**5. Coordination.** State agencies with regulatory or other authority affecting the goals established in this subchapter shall conduct their respective activities in a manner consistent with the goals established under this subchapter, including, but not limited to, coordinating with municipalities, regional councils and other state agencies in meeting the state goals; providing available information to regions and municipalities as described in section 4326, subsection 1; cooperating with efforts to integrate and provide access to geographic information system data; making state investments and awarding grant money as described in section 4349-A; and conducting reviews of growth management programs as provided in section 4347-A, subsection 3, paragraph A. Without limiting the application of this section to other state agencies, the following agencies shall comply with this subchapter. The office ~~Land and Water Resources Council~~ shall periodically, but in no event less than biannually, review the effectiveness of agency coordination efforts, including, but not limited to, those in section 4349-A:

- ~~A. Department of Conservation;~~
- B. Department of Economic and Community Development;
- C. Department of Environmental Protection;
- D. Department of Agriculture, Food and Rural Resources;
- E. Department of Inland Fisheries and Wildlife;

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- F. Department of Marine Resources;
- G. Department of Transportation;
- G-1. Department of Health and Human Services;
- ~~G-2. Executive Department, State Planning Office;~~
- H. Finance Authority of Maine; and
- I. Maine State Housing Authority.

**Sec. H-15. 30-A MRSA §4347-A, sub-§2, ¶B** is amended to read:

B. Certification by the former State Planning Office or office of a municipality's or multimunicipal region's growth management program under this article is valid for 10 years. To maintain certification, a municipality or multimunicipal region shall periodically review its growth management program and submit to the office in a timely manner any revisions necessary to account for changes, including changes caused by growth and development. Certification does not lapse in any year in which the Legislature does not appropriate funds to the office for the purposes of reviewing programs for recertification.

C. Upon a request for review under this section, the office may review rate of growth, impact fee and zoning ordinances to determine whether the ordinances are consistent with a comprehensive plan that has been found consistent under this section without requiring submission of all elements of a growth management program. An affirmative finding of consistency by the office is required for a municipality or multimunicipal region to assert jurisdiction as provided in section 4349-A.

**Sec. H-16. 30-A MRSA §4347-A, sub-§3, ¶C, sub-¶3** is amended to read:

(3) Notwithstanding paragraph D, if a municipality or multimunicipal region requests a certificate of consistency for its growth management program, any unmodified component of that program that has previously been reviewed by the former State Planning Office or the office and has received a finding of consistency will retain that finding during program certification review by the office as long as the finding of consistency is current as defined in rules adopted by the office;

**Sec. H-17. 30-A MRSA §4347-A, sub-§3-A, ¶F** is amended to read:

F. Provide ample opportunity for the municipality or multimunicipal region submitting a comprehensive plan to respond to and correct any identified deficiencies in the plan. A finding of inconsistency for a comprehensive plan may be addressed within 24 months of the date of the finding without addressing any new review standards that are created during that time interval. After 24 months, the plan must be resubmitted in its entirety for state review under the office's most current review standards.

If the office finds that a plan is not consistent with the procedures, goals and guidelines established in this subchapter, the municipality or multimunicipal district that submitted the plan may appeal that finding to the office within 20 business days of receipt of the finding in accordance with rules adopted by the office, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

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The office decision on consistency of a comprehensive plan constitutes final agency action.

A finding by the office pursuant to paragraph D that a comprehensive plan is consistent with the procedures, goals and guidelines established in this subchapter is valid for 12 years from the date of its issuance. A finding by the ~~office~~ former State Planning Office issued pursuant to this subchapter prior to December 31, 2000 that a comprehensive plan is consistent with the procedures, goals and guidelines established in this subchapter is valid until December 31, 2012. For purposes of section 4314, subsection 3 and section 4352, subsection 2, expiration of a finding of consistency pursuant to this subsection does not itself make a comprehensive plan inconsistent with the procedures, goals and guidelines established in this subchapter.

**Sec. H-18. 30-A MRSA §4349-A, sub-§3-A, ¶A** is amended to read:

**3-A. Preference for other state grants and investments.** Preference for other state grants and investments is governed by this subsection.

A. When awarding a grant or making a discretionary investment under any of the programs under paragraph B, subparagraphs (1) and (2) or when undertaking its own capital investment programs other than for projects identified in section 4301, subsection 5-B, a state agency shall respect the primary purpose of its grant or investment program and, to the extent feasible, give preference:

(1) First, to a municipality that has received a certificate of consistency for its growth management program under section 4347-A;

(2) Second, to a municipality that has adopted a comprehensive plan that the former State Planning Office or the office has determined is consistent with the procedures, goals and guidelines of this subchapter and has adopted zoning ordinances that the former State Planning Office or the office has determined are consistent with the comprehensive plan; and

(3) Third, to a municipality that has adopted a comprehensive plan that the former State Planning Office or the office has determined is consistent with the procedures, goals and guidelines of this subchapter.

If a municipality has submitted a comprehensive plan, zoning ordinance or growth management program to the former State Planning Office or the office for review, the time for ~~the office to respond~~ response as established in section 4347-A has expired and ~~the office has not provided its~~ comments or findings have not been provided to the municipality, a state agency when awarding a grant or making a discretionary investment under this subsection may not give preference over the municipality to another municipality.

**Sec. H-19. 30-A MRSA §5226, sub-§2** is amended to read:

**2. Review by commissioner.** Before final designation of a tax increment financing district, the commissioner shall review the proposal to ensure that the proposal complies with statutory requirements. In the case of a downtown tax increment financing district, the ~~State Planning Office~~ Department of Conservation and the Department of

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Transportation shall review the proposal and provide advice to assist the commissioner in making a decision under this subsection.

**Sec. H-20. 30-A MRSA §5953-D, sub-§3, ¶D, sub-¶2** is amended to read:

(2) A municipality is eligible to receive a loan if that municipality:

(a) Has adopted a comprehensive plan that ~~is determined by the the Executive Department, State Planning Office~~ former State Planning Office or the Department of Conservation to be consistent with section 4326, subsections 1 to 4.

**Sec. H-21. 30-A MRSA §5953-D, sub-§5** is amended to read:

**5. Coordination.** The bank shall coordinate the loans and grants made under this section with all other community assistance loans and grants administered by the Department of Economic and Community Development and with other state assistance programs designed to accomplish similar objectives, including those administered by the Department of Education, the Department of Transportation, ~~the State Planning Office within the Executive Department~~, the Finance Authority of Maine, the Maine State Housing Authority, the Maine Historic Preservation Commission, the Department of Administrative and Financial Services, the Department of Conservation and the Department of Environmental Protection.

**Sec. H-22. 38 MRSA §420-D, sub-§6** is amended to read:

**6. Urbanizing areas.** The department shall work with the ~~State Planning Office~~ Department of Conservation to identify urban bodies of water most at risk and incorporate model ordinances protective of these bodies of water into assistance provided to local governments.

**Sec. H-23. 38 MRSA §420-D, sub-§11, ¶A, sub-¶4** is amended to read:

(4) Except in an urbanized part of a designated growth area, best management practices must be incorporated on site that, by design, will reduce phosphorus export by at least 50%, and a phosphorus compensation project must be carried out or a compensation fee must be paid to address the remaining phosphorus reduction required to meet the parcel's phosphorus allocation. In an urbanized part of a designated growth area, an applicant may pay a phosphorus compensation fee in lieu of part or all of the on-site phosphorus reduction requirement. The commissioner shall identify urbanized parts of designated growth areas in the direct watersheds of lakes most at risk, in consultation with the ~~State Planning Office~~ Department of Conservation.

**Sec. H-24. 38 MRSA §480-F, sub-§1, ¶B** is amended to read:

B. Adopted a comprehensive plan and related land use ordinances determined by the former State Planning Office or the Department of Conservation to be consistent with the

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criteria set forth in Title 30-A, chapter 187, subchapter II and determined by the commissioner to be at least as stringent as criteria set forth in section 480-D;

**Sec. H-25. 38 MRSA §480-Z, sub-§3** is 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 State Planning Office,~~ Department of Conservation, the United States Army Corps of Engineers and state and federal resource agencies, including the United States Fish and Wildlife Service and the United States Environmental Protection Agency. The department may develop a compensation fee program for the areas listed in subsection 7, paragraphs C, D and E in consultation with the Department of Inland Fisheries and Wildlife.

**Sec. H-26. 38 MRSA §488, sub-§14, ¶A** is amended to read:

A. A development is exempt from review under flood plain, noise and infrastructure standards under section 484 if that development is located entirely within:

(1) A municipality that has adopted a local growth management program that ~~the State Planning Office~~ has been certified under Title 30-A, section 4347-A; and

(2) An area designated in that municipality's local growth management program as a growth area.

An applicant claiming an exemption under this paragraph shall include with the application a statement from the ~~State Planning Office~~ Department of Conservation affirming that the location of the proposed development meets the provisions of subparagraphs (1) and (2).

An applicant claiming an exemption under this paragraph shall publish a notice of that application in a newspaper of general circulation in the region that includes the municipality in which the development is proposed to occur. That notice must include a statement indicating the standard or standards for which the applicant is claiming an exemption.

**Sec. H-27. 38 MRSA §489-D, sub-§2, ¶B** is amended to read:

B. A municipality may also obtain technical assistance in the form of a peer review from a private consultant or regional council and may recover costs from the developer for a project of any size. The ~~State Planning Office~~ Department of Conservation has the authority to establish rules as necessary for this purpose.

**Sec. H-28. 38 MRSA §909** is amended to read:

**§909. Technical assistance**

To the extent existing resources are available, when one or more municipalities seeks ownership of a dam, the ~~State Planning Office~~ Department of Conservation may provide

grants and technical assistance to the participating municipality or municipalities or to regional planning organizations.

**Sec. H-29. 38 MRSA §956** is amended to read:

**§956. The comprehensive plan**

**1. Guide for boundaries.** The comprehensive plan submitted to the 106th Legislature by the Saco River Environmental Advisory Committee shall be used as a guide by the planning boards of the municipalities within the corridor in making recommendations for district boundaries and by the commission in establishing final boundaries. The comprehensive plan shall not be regarded as a final and complete design for the future of the land and water areas within the corridor, but as the basis of a continuing planning process to be carried out by the commission in conjunction with local officials, regional planning districts, councils of government and the ~~State Planning Office~~ Department of Conservation.

**2. Prerequisites to amendment or revision.** The commission shall not amend or revise the comprehensive plan, unless:

A. The proposed amendment or revision has been submitted to the Southern Maine Regional Planning Commission, the Greater Portland Council of Governments and other appropriate agencies, which shall forward their comments and recommendations, if any, to the commission within 30 days;

B. The proposed amendment or revision has been submitted to the ~~State Planning Office, pursuant to Title 5, section 3305, subsection 1, paragraph G~~ Department of Conservation, which shall forward its comments and recommendations, if any, to the commission within 30 days; and

C. The commission has considered all the comments.

**3. Basis for amendment or revision.** The commission shall have the authority, after notice and public hearing, to revise, expand or amend the comprehensive plan on the basis of new information, improved professional techniques or changing conditions in the corridor.

**Sec. H-30. 38 MRSA §961** is amended to read:

**§961. Relation to municipal, state and federal regulations**

Nothing in this chapter prevents municipal, state or federal authorities from adopting and administering more stringent requirements regarding performance standards or permitted uses within use districts established by the commission or within districts overlapping the districts established pursuant to this chapter. Where there is a conflict between a provision adopted under this chapter and any other municipal, state or federal requirement applicable to the same land or water areas within the corridor, the more restrictive provision takes precedence. All performance standards, rules and regulations proposed for hearing by the commission must be submitted to the Commissioner of Environmental Protection, ~~the State Planning Office~~ Department of Conservation, the

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Greater Portland Council of Governments and the Southern Maine Regional Planning Commission at least 7 days prior to the hearing for review and comment. The commission shall not promulgate any rule establishing air or water quality standards within the corridor in conflict with the rules of the Department of Environmental Protection without the prior approval of the Board of Environmental Protection.

**Sec. H-31. 38 MRSA §1163, sub-2, first ¶** is amended to read:

**2. Appeal.** For an intermunicipal sewer extension, when written assurance is denied by municipal officers pursuant to subsection 1, an aggrieved party may appeal, within 15 days of the decision, to the ~~State Planning Office~~ Department of Conservation, referred to in this subsection as the "office," for a review of the municipal officers' decision. Notwithstanding Title 5, chapter 375, subchapter IV, the following procedures apply to the review by the office.

**Sec. H-32. 38 MRSA §1252, sub-§7, ¶B, first ¶** is amended to read:

B. For an intermunicipal sewer extension, when written assurance is denied by municipal officers pursuant to paragraph A, an aggrieved party may appeal, within 15 days of the decision, to the ~~State Planning Office~~ Department of Conservation, referred to in this paragraph as the "office," for a review of the municipal officers' decision. Notwithstanding Title 5, chapter 375, subchapter IV, the following procedures apply to the review by the office.

**Sec. H-33. Transition provisions; land use planning-related matters.** The following provisions apply to the reassignment of duties, responsibilities and activities of the Executive Department, State Planning Office regarding land use planning and related technical assistance to municipalities, including but not limited to those under Title 30-A, chapter 187, to the Department of Conservation.

1. Four authorized positions and incumbent personnel in the Executive Department, State Planning Office that are assigned to that office's land use planning program are transferred to Department of Conservation. These employees shall retain their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

## Part I

**Sec. I-1. 1 MRSA §25** is amended to read:

**§25. ~~The Bureau of Geology and Natural Areas to have charge of Topographic mapping~~**

The Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources has charge of topographic mapping on behalf of the State. The Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources is authorized and directed to enter

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into such agreements with the Director of the United States Geological Survey as will assure the progress of the work in an efficient and economical manner.

**Sec. I-2. 2 MRSA §6, sub-§5** is amended to read:

**5. Range 86.** The salaries of the following state officials and employees are within salary range 86:

Director of Labor Standards;

State Archivist;

Director, Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources;

Executive Director, Maine Land Use Regulation Commission;

Chair, Maine Unemployment Insurance Commission;

Child Welfare Services Ombudsman; and

Director of the Maine Drug Enforcement Agency.

**Sec. I-3. 5 MRSA §935, sub-§1, ¶D** is amended to read:

**D.** Director, Bureau of Geology ~~and Natural Areas~~ Natural Areas and Coastal Resources;

**Sec. I-4. 12 MRSA §541-A** is amended to read:

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

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

**Sec. I-5. 12 MRSA §544-D** is enacted to read:

**§544-D. Maine Coastal Program**

**1. Establishment.** The Maine Coastal Program is established within the Department of Conservation and is administered by the commissioner.

**2. Definitions.** As used in this subchapter, unless the context otherwise indicates, the following terms are defined as follows:

A. "State coastal zone management program" means the Maine Coastal Program originally approved by the National Oceanic and Atmospheric Administration in September 1978 and as subsequently changed in accordance with the federal Coastal Zone Management Act of 1972, PL 52-583, as amended;

B. "Commissioner" means the commissioner of the Department of Conservation established under section 5011; and

B. "Coastal area", "coastal management" and "coastal resources" are defined as provided in Title 38, section 1802.

**3. Purpose.** The Coastal Program is established to manage and administer and to coordinate implementation and on-going development and improvement of the state coastal zone management program in accordance with and in furtherance of the requirements of the federal Coastal Zone Management Act of 1972, PL 52-583, as amended and the State's coastal management policies established in Title 38, section 1801.

**4. Authorities.** In order to and to the extent needed to carry out its responsibilities under subsection 3, the Coastal Program is authorized to:

A. Receive and administer federal grants from the National Oceanic and Atmospheric Administration, as well as financial assistance from other public or private sources, for implementation of the state coastal zone management program;

B. At the request of the Governor or the Legislature, or on its own initiative, prepare or coordinate preparation of plans, studies, technical assistance, and policies to identify immediate and long-range needs regarding coastal management, coastal resources and related human uses in the coastal area and to guide and carry forward the wise, coordinated, and well-balanced development and conservation of coastal resources;

C. Implement aspects of the state coastal zone management program and be the lead state agency for purposes of federal consistency under Section 307 of the federal Coastal Zone Management Act; and

D. Act as the coordinating agency among the several officers, authorities, boards, commissions, departments and divisions of the State on matters relative to coastal management of coastal resources and related human uses in the coastal area.

Nothing in this section may be construed as limiting the powers and duties of any officer, authority, board, commission, department or political subdivision of the State.

**Sec. I-6. 12 MRSA §549** is enacted to read:

### **§549. Jurisdiction**

The Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources and the agencies having jurisdiction over state-owned lands have jurisdiction, as set forth in this subchapter, over all state-owned lands for the purpose of mineral development and mining on that land. The Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources and the agencies having jurisdiction over state-owned lands may make such rules as each deems proper with respect to the authority delegated pursuant to this subchapter.

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**Sec. I-7. 12 MRSA §549-A, sub-§2** is amended to read:

**2. Director of the survey.** "Director of the survey" means the Director of the Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources.

**Sec. I-8. 12 MRSA §550-B, sub-§3, ¶B** is amended to read:

A. Within 30 days after completion of any well or dry hole, or the enlarging or deepening of an existing well, a well drilling company shall submit a report to the Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources, on forms designed and provided by the Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources. The report must contain information as may be required by the Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources, including, but not limited to, location, construction and well yield.

**Sec. I-9. 12 MRSA §1835, sub-§1, ¶A** is amended to read:

A. The first \$20,000 in the aggregate of any money accruing from the alienation of rights to mine upon nonreserved public land, or other income arising out of mining operations, that is actually received during any fiscal year, and every portion thereof accruing from these mining operations, must be paid into the Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources.

**Sec. I-10. 12 MRSA §1849, sub-§1, ¶A** is amended to read:

A. The first \$20,000 in the aggregate of any money accruing from the alienation of rights to mine upon public reserved land, or other income arising out of mining operations, that is actually received during any fiscal year, and every portion thereof accruing from these mining operations, must be paid to the Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources.

**Sec. I-11. 12 MRSA §1863-A, sub-§4, ¶A** is amended to read:

A. Fifty percent to fund research, monitoring and other efforts to avoid, minimize and compensate for potential adverse effects of renewable ocean energy projects, as defined in section 1862, subsection 1, paragraph F-1, on noncommercial fisheries, seabirds, marine mammals, shorebirds, migratory birds and other coastal and marine natural resources, including but not limited to development, enhancement and maintenance of map-based information resources developed to guide public and private decision making on siting issues and field research to provide baseline or other data to address siting issues presented by renewable ocean energy projects. The department shall consult with the Department of Inland Fisheries and Wildlife ~~and the Executive Department, State Planning Office~~ in allocating funds it receives pursuant to this paragraph; and

**Sec. I-12. 12 MRSA §1868, sub-§1** is amended to read:

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**1. Site identification process.** No later than December 15, 2009, following consultation with the Department of Environmental Protection, the Public Utilities Commission, the Department of Inland Fisheries and Wildlife, the Maine Land Use Regulation Commission, the Department of Marine Resources, the Maine Historic Preservation Commission and the University of Maine System and opportunity for public comment, the department ~~, in conjunction with the Executive Department, State Planning Office,~~ shall identify and map up to 5 specific offshore wind energy test areas. An offshore wind energy test area identified under this subsection must be a geographic area on state-owned submerged lands suitable for offshore wind energy demonstration projects constructed and operated in accordance with Title 38, section 480-HH. In identifying each such area, the department must consider existing information regarding pertinent ecological, environmental, social and development-related factors, including but not limited to:

- A. Potential adverse effects on a protected natural resource, as defined by Title 38, section 480-B, subsection 8, or a scenic resource of state or national significance, as defined by Title 35-A, section 3451, subsection 9;
- B. Potential adverse effects on species listed as threatened or endangered under section 6975 or section 12803, subsection 3; avian species, including seabirds, passerines, raptors, shorebirds, water birds and waterfowl; bats; and marine mammals;
- C. Potential adverse effects on commercial fishing, recreation, navigation, existing public access ways to intertidal and subtidal areas and other existing uses;
- D. Proximity to deep water port facilities, rail transportation, transmission infrastructure facilities and existing ocean-based environmental monitoring devices;
- E. Data regarding wind speed, ocean wave height and period, ocean currents and water depth;
- F. Geology, including substrate type and other seafloor characteristics;
- G. Public support in pertinent coastal communities; and
- H. Historic sites and archaeological resources of state or national significance.

**Sec. I-13. 12 MRSA §6002, sub-§11** is amended to read:

**11. Interagency cooperation.** The commissioner shall consult with, offer advice to and cooperate with ~~the State Planning Office,~~ the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife and the Department of Conservation in carrying out his duties, and these agencies shall do the same in carrying out their duties. Cooperation shall include the exchange of information and the filing of copies of any application, petition, request, report or similar document which may bear upon the responsibilities of any of these departments. Details of those exchanges shall be worked out by the heads of the departments.

**Sec. I-14. 12 MRSA §13001, sub-§12** is amended to read:

**12. Freshwater marshes and bogs.** "Freshwater marshes and bogs" means naturally occurring open areas with saturated soils or peat, often associated with standing water and dominated by low herbaceous vegetation, grasses, weeds and shrubs and including wetlands, as shown on the Freshwater Wetlands Map Series, Bureau of

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Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources, Maine Geological Survey, or zoned as a Wetland Protection Subdistrict, P-WL, by the Maine Land Use Regulation Commission.

**Sec. I-15. 22 MRSA §676, sub-§8** is amended to read:

**5. Geology.** The Bureau of Geology, ~~and Natural Areas~~, Natural Areas and Coastal Resources, Maine Geological Survey within the Department of Conservation shall provide technical assistance for waste management.

**Sec. I-16. 22 MRSA §679-B, sub-§8** is amended to read:

**8. Transfer of funds.** Notwithstanding Title 5, section 1585, funds allocated under this section must be transferred as necessary to accomplish the purposes of this section and Title 38, chapter 14-A from the department to other agencies, including the Department of Environmental Protection, ~~the State Planning Office~~, the Bureau of Geology, ~~and Natural Areas~~ and Coastal Resources, Maine Geological Survey within the Department of Conservation and the Maine Land Use Regulation Commission.

**Sec. I-17. 32 MRSA §4700-G, sub-§2** is amended to read:

**2. Membership.** The commission consists of the director of the division of environmental health within the Department of Health and Human Services or the director's designee; the Director of the Bureau of Geology, ~~and Natural Areas~~ and Coastal Resources within the Department of Conservation or the director's designee; the Commissioner of Transportation or the commissioner's designee; and 4 public members, 3 of whom must be well drillers.

**Sec. I-18. 32 MRSA §4700-G, sub-§6** is amended to read:

**6. Administrative provision.** The department shall administer the affairs and activities of the commission, keep all books and records, excluding data reports. All appropriations for use of the commission must be made to the department. The Department of Conservation, Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources shall keep all well data reports and work with the department in the administration of the commission's activities.

**Sec. I-19. 33 MRSA §1231** is amended to read:

**§1213. Water boundaries**

For the purposes of this chapter, the ~~State Planning Office~~ Department of Conservation, Bureau of Geology, Natural Areas and Coastal Resources is directed to draw the water boundaries of the 8 coastal counties in order to determine in which registry of deeds the island shall be registered. These lines shall be drawn in accordance with the corporate charters of the counties as amended. In instances in which the charter does not clearly

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specify the seaward boundaries of the counties, the boundaries shall be drawn in accordance with state law and the principles contained in the International Convention for the Contiguous and Territorial Sea in determining seaward boundaries between adjacent nation states.

**Sec. I-20. 35-A MRSA §3451, sub-§9, ¶H** is amended to read:

H. Scenic viewpoints located in the coastal area, as defined by Title 38, section 1802, subsection 1, that are ranked as having state or national significance in terms of scenic quality in:

(1) One of the scenic inventories prepared for and published by the Executive Department, former State Planning Office: "Method for Coastal Scenic Landscape Assessment with Field Results for Kittery to Scarborough and Cape Elizabeth to South Thomaston," Dominie, et al., October 1987; "Scenic Inventory Mainland Sites of Penobscot Bay," Dewan and Associates, et al., August 1990; or "Scenic Inventory: Islesboro, Vinalhaven, North Haven and Associated Offshore Islands," Dewan and Associates, June 1992; or

(2) A scenic inventory developed by or prepared for the Executive Department, former State Planning Office or the Department of Conservation in accordance with section 3457.

**Sec. I-21. 35-A MRSA §3457, sub-§2** is amended to read:

**2. Scenic inventory.** The Executive Department, State Planning Office shall adopt rules regarding the methodology for conducting a scenic inventory of scenic resources of state or national significance that are located in the coastal area, as defined by Title 38, section 1802, subsection 1, in a manner comparable to that used for an inventory listed in section 3451, subsection 9, paragraph H, subparagraph (1). The ~~office~~ Department of Conservation, Bureau of Geology, Natural Areas and Coastal Resources may contract with an outside entity for the preparation of a scenic inventory conducted pursuant to the methodology developed pursuant to this subsection.

**Sec. I-22. 38 MRSA §361-A, sub-§1-D** is amended to read:

**1-D. Aquifer.** "Aquifer" means a geologic formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water, as identified by the Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources, Maine Geological Survey within the Department of Conservation.

**Sec. I-23. 38 MRSA §401** is amended to read:

**§401. Findings; purpose**

The Legislature finds and declares that the protection of ground water resources is critical to promote the health, safety and general welfare of the people of the State. Aquifers provide a significant amount of the water used by the people of the State. Aquifers and

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aquifer recharge areas are critical elements in the hydrologic cycle. Aquifer recharge areas collect, conduct and purify the water that replenishes aquifers.

The Legislature further finds and declares that an adequate supply of safe drinking water is a matter of the highest priority and that it is the policy of the State to protect, conserve and maintain ground water supplies in the State.

The Legislature further finds and declares that ground water resources are endangered by unwise uses and land use practices.

The Legislature further finds that these resources may be threatened by certain agricultural chemicals and practices, but that the nature and extent of this impact is largely unknown. Failure to evaluate this potential problem is likely to result in costly contamination of some ground water supplies leading to increased risks to the public health.

The Legislature further finds and declares it to be the purpose of this Article to require classification of the state's ground water resources.

The Legislature further finds and declares that there are numerous existing state agencies, commissions, boards or similar entities administering various statutes and programs relating to ground water. Because of the importance of ground water to the safety and well-being of the State, there is an urgent need for the coordination and development of the programs to assess the quality and quantity of and to protect ground water.

It is the intention of the Legislature that the Bureau of Geology, Natural Areas and Coastal Resources provide coordination and develop programs for the collection and analysis of information relating to the nature, extent and quality of aquifers and aquifer recharge areas.

It is further the intention of the Legislature that existing programs related to ground water continue in their present form and that the Department of Environmental Protection provide coordination for the protection of ground water through existing statutes and regulation.

This article is not intended to limit a municipality's power to enact ordinances under Title 30-A, section 3001, to protect and conserve the quality and quantity of ground water.

**Sec. I-24. 38 MRSA §402** is amended to read:

**§402. Research**

The Bureau of Geology, Natural Areas and Coastal Resources, in cooperation with the Department of Environmental Protection, is authorized to conduct research and studies to determine recharge and cleansing rates of ground water in different sand and gravel and bedrock formations.

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The Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources, Maine Geological Survey within the Department of Conservation in cooperation with other agencies as appropriate shall conduct a 3-year program to assess the impact of agricultural practices and chemicals on ground water quality in selected agricultural areas and selected aquifers. The program must evaluate the extent and level of contamination associated with pesticide use, the mechanisms by which pesticides move through the soil and into ground water supplies, the synergistic effects of these substances and their persistence in ground water.

The survey shall report annually its progress to the joint standing committee of the Legislature having jurisdiction over natural resources.

**Sec. I-25. 38 MRSA §410-I, sub-§1** is amended to read:

**§410-I. Cooperation with agencies**

**1. Agency cooperation.** The commissioner shall cooperate and coordinate with the Commissioner of Agriculture, Food and Rural Resources; the Commissioner of Conservation; the Commissioner of Transportation; the Commissioner of Economic and Community Development; the Commissioner of Health and Human Services; ~~and the Commissioner of Marine Resources; and the Director of the State Planning Office~~ to ensure a coordinated approach to nonpoint source pollution control for agriculture, forestry, transportation and development.

**Sec. I-26. 38 MRSA §546-B, sub-§1** is amended to read:

**§546-B. Sensitive area identification and protection**

**1. Sensitive area identification and data management.** The commissioner, in consultation with the Department of Marine Resources, the Department of Inland Fisheries and Wildlife, the Department of Conservation, ~~the State Planning Office~~, the United States Fish and Wildlife Service and other appropriate agencies and organizations, both public and private, shall assess the nature and extent of sensitive areas and resources in the marine environment that may be threatened by oil spills and develop a system to collect and maintain the necessary data. The commissioner shall ensure that the duplication of effort among agencies and creation of incompatible data and data bases are minimized.

**Sec. I-27. 38 MRSA §549** is amended to read:

**§549. Personnel and equipment**

The commissioner shall establish and maintain at such ports within the State, and other places as the commissioner determines, employees and equipment necessary to carry out this subchapter. The commissioner, subject to the Civil Service Law, may employ personnel necessary to carry out the purposes of this subchapter, and shall prescribe the

duties of those employees. The salaries of those employees and the cost of that equipment must be paid from the Maine Coastal and Inland Surface Oil Clean-up Fund established by this subchapter. The commissioner and the Director of the Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources shall periodically consult with each other relative to procedures for the prevention of oil discharges into the coastal waters of the State from offshore drilling production facilities. Inspection and enforcement employees of the department in their line of duty under this subchapter have the powers of a constable.

**Sec. I-28. 38 MRSA §1804** is amended to read:

**§1804. Interagency review of coastal water access issues**

The ~~Executive Department, State Planning Office~~ Department of Conservation and the Department of Marine Resources, within existing budgeted resources, shall convene a working group of staff from all state agencies that deal with coastal water access issues to share data, program activities and areas for collaboration on coastal water access issues. Each agency shall identify the coastal water access data that the agency has, the coastal water access data that the agency needs and potential funding sources for the collection of the needed data. Other stakeholders may be included as appropriate. The ~~State Planning Office~~ Department of Conservation and the Department of Marine Resources shall submit a report of the working group's activities, including how the agencies can work cooperatively to make creative use of available funds to address both recreational and commercial access needs and to optimize projects that are multiuse in nature to the joint standing committee of the Legislature having jurisdiction over marine resources matters by January 15th of every odd-numbered year.

**Sec. I-29. 38 MRSA §1905, sub-§1** is amended to read:

**1. Maps; coastal barriers identified.** Maine's coastal barriers are identified on maps, available for public review, at the Department of Conservation, Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources, Maine Geological Survey office in Augusta. They are referred to as the Maine Coastal Barrier Resources Systems and are numbered consistent with the United States Coastal Barriers Resource Act.

**Sec. I-30. 38 MRSA §2152, sub-§2, ¶C** is amended to read:

C. The Commissioner of Environmental Protection and the Director of the Bureau of Geology ~~and Natural Areas~~, Natural Areas and Coastal Resources shall serve as technical advisors to the board.

**Sec. I-31. Transition provisions; Maine Coastal Program-related matters.** The following provisions apply to reassignment of duties, responsibilities and activities regarding management and administration and implementation of aspects of the State's federally approved coastal zone management program from the Executive Department,

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State Planning Office to the Department of Conservation, Bureau of Geology, Natural Areas, and Coastal Resources.

1. The Governor shall designate the Department of Conservation to receive and administer implementation grants for and serve as the state agency for federal consistency review as provided by the Maine Coastal Program approved by the National Oceanic and Atmospheric Administration in September 1978 and as subsequently amended in accordance with the federal Coastal Zone Management Act. No later than one year following the effective date of this section, the Department of Conservation shall submit to the National Oceanic and Atmospheric Administration, Office of Coastal Resource Management, for its review and approval in accordance with Title 15, Code of Federal Regulations, Part 923 any changes to the Maine Coastal Program necessary to conform the program to the intent of this section.

2. Six authorized positions and incumbent personnel in the Executive Department, State Planning Office assigned to the Maine Coastal Program are transferred to the Department of Conservation, Bureau of Geology, Natural Areas, and Coastal Resources. Those employees shall retain their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

3. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, the State Controller, upon request of the State Budget Officer and with the approval of the Governor, shall transfer to the proper account in the Department of Conservation all accrued expenditures, assets, liabilities, including but not limited to any contractual obligations, balances or appropriations, allocations, transfers, revenues or other available funds in any account or subdivision of an account of the State Planning Office established for administration of funds related to management of coastal resources, including but not limited to grant funds from the National Oceanic and Atmospheric Administration pursuant to the Coastal Zone Management Act. Nothing in this section changes or is intended to change or otherwise affect the purposes or uses for which any funds transferred pursuant to this section may be expended.

## Part J

**Sec. J-1. 5 MRSA §7504** is amended to read

### **§7504. Staff and administrative services; program administration**

The ~~State Planning Office~~ Department of Education shall provide staff and administrative services as follows.

**1. Executive director; staff.** The ~~Director of the State Planning Office~~ Commissioner of the Department of Education, ~~with the advice and consent of in consultation with the commission,~~ shall hire an executive director as a member of the ~~State Planning Office~~ Department of Education's staff. The executive director oversees day-to-day operations of the commission, hires staff members with the approval of the

commission and the ~~Director of the State Planning Office~~ Commissioner of the Department of Education, and carries out other responsibilities as directed by the commission.

**2. Administrative services.** The ~~State Planning Office~~ Department of Education shall provide the executive director and the commission with continuing administrative support as appropriate using existing budgeted resources and no additional General Fund money may be appropriated for the administrative purposes of the commission. The ~~State Planning Office~~ Department of Education may establish a dedicated account on behalf of the commission to receive funds contributed by private and public agencies for use solely for commission purposes.

**Sec. J-2. Transition provisions; Maine Commission for Community Service-related matters.** The following provisions apply to the reassignment of duties, responsibilities and activities of the Maine Commission on Community Service.

1. Five authorized positions and incumbent personnel in the Executive Department, State Planning Office assigned to the Maine Commission for Community Service are transferred to the Department of Education, Maine Commission for Community Service. These employees shall retain their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

2. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, the State Controller, upon request of the State Budget Officer and with the approval of the Governor, shall transfer to the proper account in the Department of Education, Maine Commission for Community Service all accrued expenditures, assets, liabilities, including but not limited to any contractual obligations, balances or appropriations, allocations, transfers, revenues or other available funds in any account or subdivision of an account of the State Planning Office established for funds administered by the Maine Commission for Community Service. Nothing in this section changes or is intended to change or otherwise affect the purposes or uses for which any funds transferred pursuant to this section may be expended.

## Part K

**Sec. K-1. 2 MRSA §9, sub-§3, ¶G** is amended to read:

G. Seek, accept and administer funds and partnerships with from public and private sources and develop partnerships with public and private entities to support the goals of the office, including, but not limited to, promoting energy efficiency, demand-side management and distributed generation;

**Sec. K-2. 2 MRSA §9, sub-§5** is enacted to read:

**5. Maine Energy Resources Development Program.** The office, as funding allows, shall administer a program of energy research and demonstration activities related to both the use of indigenous, renewable resources and more efficient use of energy. The director may accept private money for the purpose of pursuing this program.

**A. Report to Legislature.** The director shall include, in the biennial comprehensive energy plan, a report which specifies, in regard to the Maine Energy Resources Development Program, the expenditure of the funds, the purposes for which the funds were used and the amount of as well as the sources from which the funds were derived.

**B. Expenditures requiring approval.** For all programs involving expenditures of \$10,000 or more, the director shall recommend those expenditures to the Governor. If the Governor approves, the director shall recommend those expenditures to the Legislature under the procedures authorizing the transfer of funds set forth in section 1585.

**Sec. K-3. 2 MRSA §9, sub-§6** is enacted to read:

**6. Reporting of petroleum inventories and deliveries.**

**A. Definitions.** As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings:

(1) "Petroleum products" means propane; gasoline; unleaded gasoline; gasohol; kerosene; #2 heating oil; diesel fuel; kerosene-based jet fuel; aviation gasoline; #4, #5 and #6 residual oil for utility and nonutility uses; and Bunker C oil.

(2) "Primary storage facilities" means any facility which receives petroleum products into the State either by pipeline or ship; and

(3) "Primary supplier" means any refiner, marketer, distributor, firm or person who makes the first sale of any petroleum product to resellers or consumers in this State.

**B. Reporting of owners and lessees of primary storage facilities.** Each owner or lessee of primary storage facilities in the State shall make an accurate report on the first and 3rd Monday of each month to the office on a form provided by the director. The form must contain a conspicuous statement of the penalties provided in subsection 4 and must require the following information:

(1) The total inventory of each petroleum product stored in the State, as measured within not more than 3 working days prior to the reporting date; and

(2) The quantities of each petroleum product delivery expected into the State within 15 days of the reporting date or within any longer period established by the director.

**C. Reporting of primary suppliers.** Each primary supplier of petroleum products shall make an accurate report on the 3rd Monday of each month to the office on a form provided by the director, unless the report is already being submitted in accordance with

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federal regulations. The form must contain a conspicuous statement of the penalties provided in subsection 4 and must require the following information:

(1) Actual deliveries of all petroleum products in this State during the preceding calendar month;

(2) Anticipated deliveries of all petroleum products in this State during the following calendar month or during any longer period established by the director; and

(3) Allocation fractions for all petroleum products for the following month or for any longer period established by the director.

**D. Penalty provisions.** A person who violates this section is subject to the following penalties.

(1). An owner or lessee of a primary storage facility or a primary supplier covered by this section who fails to provide the information required by this section commits a Class D crime. Violation of this paragraph is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

(2). An owner or lessee of a primary storage facility or a primary supplier covered by this section who knowingly or recklessly supplies false or misleading information is guilty of a violation of Title 17-A, section 453. C. An owner or lessee of a primary storage facility who supplies false or misleading information commits a civil violation for which a fine of \$2,500 may be adjudged.

**E. Reporting.** The office shall provide reports to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters as follows:

(1). If the office determines, based on available information, that there is or may be a significant shortfall in supply inventories or anticipated deliveries into the State of home heating oil or kerosene, a report including:

a. The information that suggests a supply shortfall;

b. Current and anticipated inventories of home heating oil and kerosene storage supplies; and

c. Any recommendations of the office for actions by the State in response to the anticipated supply shortfall; and

d.. A report on inventories, deliveries, curtailments, shortfalls or other matters relating to the availability of petroleum products in this State, at the request of the joint standing committee of the Legislature having jurisdiction over utilities and energy matters.

**Sec. K-4. 7 MRSA §2, sub-§5, 3<sup>rd</sup> paragraph** is amended to read:

In addition, the commissioner shall be concerned with the quality of life of Maine farmers and rural communities. The commissioner shall promote: farm financing and

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rural development proposals; conservation and preservation of agricultural lands; increased and improved production of beef, poultry, sheep, dairy beef and other livestock; expanded and improved production of potatoes, fruits and other vegetables and horticultural ventures; coordinated foreign and domestic marketing of Maine agricultural products; in conjunction with the university, crop development and integrated pest management; and conservation of nonrenewable energy resources and utilization of renewable energy resources in conjunction with the Governor's Office of Energy Independence and Security. To accomplish these objectives, the commissioner is authorized for, or on behalf of, Maine's farmers and rural community: to engage in research and educational programs; to participate directly or indirectly in programs to encourage and enable individuals to enter agricultural or other rural enterprises; to institute litigation or upon request to represent farmers or other members of the rural community in litigation where the commissioner determines that such litigation may be beneficial to agricultural industry as a whole; and to exercise all other powers of an agency of State Government. The commissioner may study such issues and, consistent with statute, take such actions either individually, for, or on behalf of, the State's farmers or rural residents, or jointly with such other persons, agencies or organizations as the commissioner determines may benefit the State's farmers and rural communities. To further accomplish these objectives, the commissioner is authorized beginning July 1, 1991, on behalf of the State's rural community, to administer food assistance programs including the receipt, distribution and administration of federal and state funds, including block grants, for food assistance.

**Sec. K-5. 10 MRSA §1492, sub-§1** is amended to read:

**1. Solar energy equipment.** "Solar energy equipment" means all controls, tanks, pumps, heat exchangers, collectors and all other equipment necessary for the collection, transfer and storage of solar energy, as determined by the ~~State Planning Office~~ Governor's Office of Energy Independence and Security. Passive solar energy systems or those systems using natural means to collect, store and transfer solar energy shall not be included under this chapter.

**Sec. K-6. 12 MRSA §405-A, sub-§4** is amended to read:

**4. Review.** The ~~State Planning Office~~ Governor's Office of Energy Independence and Security shall review the status of hydropower development on the St. Croix River and shall report to the joint standing committee of the Legislature having jurisdiction over energy and natural resources by January 1, ~~1993~~ 2013 and every 5 years thereafter. The report shall include any recommendations for changes in the provisions of this section together with the justification for the changes. If the St. Croix River is included in any legislative Act or regulation which directly or indirectly has as its effect the essential prohibition of construction of new dams or development or redevelopment of existing dams on the St. Croix River, this section shall be repealed on the effective date of that Act or regulation.

**Sec. K-7. 22 MRSA §666, sub-§1** is amended to read:

**1. Damages to public health and safety.** If the State Nuclear Safety Inspector has reason to believe that any activity poses a danger to public health and safety, and after notifying the facility licensee and the United States Nuclear Regulatory Commission, the inspector shall immediately notify the Governor, and the Commissioner of Health and Human Services ~~and the State Nuclear Safety Advisor within the State Planning Office.~~ This subsection may not be construed as precluding the State Nuclear Safety Inspector from discussing the safety inspector's concerns with the United States Nuclear Regulatory Commission or others before making a determination that any activity poses a danger to public health and safety.

**Sec. K-8. 22 MRSA §666, sub-§2** is amended to read:

**2. Reports.** The State Nuclear Safety Inspector, with the cooperation of the Director of Health Engineering, shall prepare a report of the safety inspector's activities under this chapter to be submitted July 1st of each year to the ~~State Nuclear Safety Advisor~~ Governor's Office of Energy Independence and Security and the Legislature. The State Nuclear Safety Inspector shall prepare monthly reports for the ~~State Nuclear Safety Advisor~~ Governor's Office of Energy Independence and Security, the President of the Senate and the Speaker of the House, with copies to the United States Nuclear Regulatory Commission and the facility licensee.

**Sec. K-9. 22 MRSA §676, sub-§6** is amended to read:

**6. Energy.** The ~~State Planning Office~~ Governor's Office of Energy Independence and Security shall serve as liaison with the United States Department of Energy.

**Sec. K-10. 35-A MRSA §4131, sub-§3, ¶C** is amended to read:

C. The Director of the ~~State Planning Office~~ Governor's Office of Energy Independence and Security, or another employee of ~~the State Planning Office~~ that office, as the director may from time to time designate in writing filed with the clerk of the agency, shall serve as a member of the board of directors.

**Sec. K-11. 37-B MRSA §742, sub-§2, ¶B** is amended to read:

B. Upon the issuance of an energy emergency proclamation and after consulting with the ~~Executive Department, State Planning Office~~ Governor's Office of Energy Independence and Security, the Governor may exercise all the powers granted in this chapter, except as specifically limited by paragraph C. The powers of the Governor include, without limitation, the authority to:

- (1) Establish and implement programs, controls, standards, priorities and quotas for the allocation, conservation and consumption of energy resources;
- (2) Regulate the hours and days during which nonresidential buildings may be open and the temperatures at which they may be maintained;

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(3) Regulate the use of gasoline and diesel-powered land vehicles, watercraft and aircraft;

(4) After consulting, when appropriate, with the New England governors and upon the recommendations of the Public Utilities Commission, regulate the generation, distribution and consumption of electricity;

(5) Establish temporary state and local boards and agencies;

(6) Establish and implement programs and agreements for the purposes of coordinating the emergency energy response of the State with those of the Federal Government and of other states and localities;

(7) Temporarily suspend truck weight and size regulations, but not in conflict with federal regulations;

(8) Regulate the storage, distribution and consumption of home heating oil; and

(9) If the energy emergency was caused by a lack of electric grid reliability in this State resulting from insufficient capacity resources, take appropriate action, in consultation with the Public Utilities Commission, to procure sufficient capacity resources including generation capacity and interruptible, demand response or energy efficiency capacity resources.

**Sec. K-12. 38 MRSA §480-H, sub-§3, ¶H** is amended to read:

H. Documentation that, in developing each plan required under paragraphs E to G, the applicant consulted with: the Department of Marine Resources, the Department of Inland Fisheries and Wildlife and the Department of Conservation; the Maine Land Use Regulation Commission ~~and the Executive Department, State Planning Office; the Governor's Office of Energy Independence and Security;~~ the United States Army Corps of Engineers, the United States Coast Guard, the National Marine Fisheries Service, the National Park Service and the United States Fish and Wildlife Service; the lobster management policy council established under Title 12, section 6447 for the lobster management zone in which the offshore wind energy demonstration project is proposed; each municipality in which or adjacent to which the project is proposed; and any other local, state or federal agency the applicant considers appropriate. This documentation must include copies of these agencies' comments and recommendations on the plan, if any, and specific descriptions of how the agencies' comments are accommodated by the plan, including the applicant's reasons, based on project-specific information, for any agency recommendation not adopted. The applicant shall allow a minimum of 60 days for the agencies to review and make comments and recommendations on each draft plan before it is filed with the department. No more than 30 days prior to its initiation, the applicant shall notify each municipality within or adjacent to which it intends to site and operate an offshore wind energy demonstration project and invite its participation in the consultation required under this paragraph;

**Sec. K-13. 38 MRSA §634, sub-§3** is amended to read:

**3. Application review.** Within 10 working days of receiving a completed application, the commissioner shall notify the applicant of the official date on which the application was accepted.

The commissioner shall circulate the application among the Department of Environmental Protection, Department of Conservation, Department of Inland Fisheries and Wildlife, Department of Marine Resources, Department of Transportation, Maine Historic Preservation Commission, ~~State Planning Office~~, the Governor's Office of Energy Independence and Security, Public Utilities Commission and the municipal officials of the municipality in which the project is located. The ~~State Planning Office~~ Governor's Office of Energy Independence and Security and the Public Utilities Commission shall submit written comments on section 636, subsection 7, paragraph F. For projects within the jurisdiction of the Maine Land Use Regulation Commission, the director may request and obtain technical assistance and recommendations from the staff of the department. The Commissioner of Environmental Protection shall respond to the requests in a timely manner. The recommendations of the Commissioner of Environmental Protection must be considered by the commission in acting upon a project application.

**Sec. K-14. 38 MRSA §640** is amended to read:

**§640. Public participation**

Unless otherwise provided in accordance with regulations promulgated by the Federal Energy Regulatory Commission, for all existing hydropower projects located in Maine currently licensed under the Federal Power Act, and for all proposed hydropower projects requiring a license to operate under the Federal Power Act, all state agencies that review, comment on and consult in the proposed studies, plans, terms and conditions in the course of licensing or relicensing these projects, including ~~the State Planning Office~~ the Department of Conservation, the Governor's Office of Energy Independence and Security, Department of Environmental Protection, the Department of Inland Fisheries and Wildlife and the Department of Marine Resources, shall cooperatively take the following steps to ensure that interested members of the public are informed of, and allowed to participate in, the review and comment process.

**Sec. K-15. 38 MRSA §1480-A** is amended to read:

**§1480-A. Joint hearings; intervention**

The Department of Health and Human Services ~~or the State Planning Office~~ the Governor's Office of Energy Independence and Security may intervene in any federal licensing proceeding to carry out the purpose of this chapter.

**Sec. K-16. Transition provisions; Governor's Office of Energy Independence and Security-related matters.** The following provisions apply to the reassignment of energy policy related duties and responsibilities of the State Planning Office to the Governor's Office of Energy Independence and Security.

1. Two authorized positions and incumbent personnel in the Executive Department, State Planning Office currently assigned to duties and responsibilities of the

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Governor's Office of Energy Independence and Security are transferred to the Executive Department, Governor's Office of Energy Independence and Security. Those employees shall retain their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

2. Notwithstanding the provisions of the Maine Revised Statutes, Title 5 and except as otherwise provided in subsection 4, the State Controller, upon request of the State Budget Officer and with the approval of the Governor, shall transfer to the proper account in the Executive Department, Governor's Office of Energy Independence and Security all accrued expenditures, assets, liabilities, including but not limited to any contractual obligations, balances or appropriations, allocations, transfers, revenues or other available funds in any account or subdivision of an account of the State Planning Office established for administration of grant funds previously allocated to the Governor's Office of Energy Independence and Security. Nothing in this section changes or is intended to change or otherwise affect the purposes or uses for which any funds transferred pursuant to this section may be expended.

## Part L

**Section L-1 General transition provisions.** The following provisions apply to reassignment of duties and responsibilities and transfer of personnel of the Executive Department, State Planning Office to other agencies as provided in this Act.

1. By December 1, 2013, director of the Governor's Office of Policy and Management shall submit legislation to the First Regular Session of the 126th Legislature to revise remaining references, if any, to the State Planning Office in the Maine Revised Statutes and to make any additional technical changes needed to conform to the intent of this Act. All references to the State Planning Office that are in the Maine Revised Statutes, private and special laws, resolves, rules, procedures, ordinances or plans that are in effect, in operation or are adopted by a state agency or other instrumentality of the State following the effective date of the Act shall be construed to refer to the appropriate state agency, instrumentality or other entity in accordance with the terms and intent of this Act.

2. All rules and procedures that have been adopted by the State Planning Office and that are in effect on the effective date of this Act remain in effect until rescinded, revised or amended by the appropriate authority in accordance with this Act and other applicable state law. Nothing in this section is intended to increase, diminish or otherwise affect the rulemaking authority of any agency or other instrumentality of state government.

3. All personal property and equipment previously belonging to or allocated for the use of a program of the State Planning Office must be transferred to the agency to which that program is transferred by this Act. The Department of Administrative and Financial Services shall oversee and resolve any questions regarding such transfer in accordance with the intent of this Act. 4. Records of the State Planning Office that are

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needed for continued performance of a duty or function previously assigned to the State Planning Office must be transferred to the agency to which that duty or function is assigned by this Act. Other essential records of the State Planning Office must be transferred to the Department of Administrative and Financial Services to be maintained and stored pursuant to standard procedure.

5. The transfer of all personal property, equipment, records and personnel under this Act, except where provided otherwise, shall be effective on July 1, 2012.

### **Bill Summary**

This bill implements the recommendations of the working group established by P.L. 2011 chapter 380, Part FF regarding transfer of duties and responsibilities of the State Planning Office to other state departments and agencies.

Part A abolishes the State Planning Office.

Part B establishes in the Executive Department the Governor's Office of Policy and Management whose primary mission is to facilitate achievement of long-term state economic goals and objectives and improvement of efficiency and effectiveness with which State government performs its functions and delivers services. The office's duties include a number of economic policy-related functions for which the State Planning Office has been responsible.

Part C amends legislation regarding state boards and commissions and natural resources-related planning functions to reflect abolishment of the State Planning Office and abolishes several boards and commissions for which the State Planning Office has provided support.

Part D transfers the State Planning Office's duties and responsibilities regarding training and certification for municipal code enforcement officers to the Office of Community Development in the Department of Economic and Community Development.

Part E transfers the State Planning Office's duties and responsibilities regarding solid waste management and recycling policy to the Department of Environmental Protection's Technical and Environmental Assistance Program; and transfers ownership of state-owned land fills and related management duties and responsibilities to Bureau of General Services in the Department of Administrative and Financial Services.

Part F transfers the State Planning Office's duties and responsibilities as state coordinating agency for the National Flood Insurance Program to the Maine Emergency Management Agency in the Department of Defense, Veterans, and Emergency Management.

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Part G transfers the State Planning Office's duties and responsibilities regarding provision of staff support for the Land for Maine's Future Program to the Department of Conservation's Natural Areas Program.

Part H transfers the State Planning Office's duties and responsibilities regarding the Growth Management Act and related land use policy-matters to the Department of Conservation.

Part I transfers the State Planning Office's duties and responsibilities as lead agency for the Maine Coastal Program to the Department of Conservation's Bureau of Geology and Natural Areas, renamed, accordingly, the Bureau of Geology, Natural Areas and Coastal Resources.

Part J transfers the State Planning Office's duties and responsibilities regarding provision of administrative support for the Maine Commission for Community Service to the Department of Education.

Part K transfers the State Planning Office's duties and responsibilities regarding various energy policy-related matters to the Governor's Office of Energy Independence and Security.

Part L contains general transition provisions regarding transfer of the State Planning Office's duties, responsibilities, and property to the other units of State Government as provided in the bill.

The effective date for creation of the Governor's Office of Policy and Management and gubernatorial appointment of its director is May 1, 2012. Timed to the beginning of the next fiscal year, the effective date for the bill's other provisions is July, 2012.