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Resolve, To Authorize the State To Acquire a Landfill in the Town of East Millinocket

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

Whereas, the owner of pulp and paper mills in the Town of Millinocket and the Town of East Millinocket has announced the closure of the mills after failing to find buyers for them; and

Whereas, this closure would have an immediate negative effect on the economy in the Town of Millinocket, the Town of East Millinocket and the surrounding area, including the loss of approximately 400 jobs; and

Whereas, the ability of the State to enter into negotiations for acquiring the existing solid waste disposal facility on the East Millinocket mill property will help the effort to sell and reopen the mills, retain the jobs and reverse the potential negative economic effect of the mills' closure; and

Whereas, the acquisition of real estate associated with the solid waste disposal facility by donation will not involve the purchase or sale of real estate within the meaning of the Constitution of Maine; and

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

Sec. 1 Acquisition of landfill authorized. Resolved: That, notwithstanding the Maine Revised Statutes, Title 5, section 1825#B, subsection 1; Title 38, section 1310#X; and Title 38, chapter 24, the following provisions apply.

1. The Executive Department, State Planning Office, referred to in this section as "the office," may acquire, own and cause to be operated an existing Department of Environmental Protection-licensed and generator-owned solid waste disposal facility in the Town of East Millinocket, known as the Dolby Landfill and consisting of 3 separate areas known as "Dolby Landfill Site 1," "Dolby Landfill Site 2" and "Dolby Landfill Site 3," including unused solid waste capacity, expansion potential and the rights and obligations of all related solid waste licenses, together with such related property, if any, and appurtenant rights as may be necessary or desirable for the operation of such property as a commercial landfill, referred to in this resolve collectively as "the disposal facility."

The office may only acquire real estate associated with the disposal facility by donation and may establish the terms and conditions of acquisition by donation and execute and deliver, in the name of and on behalf of the State, all contracts the office determines are necessary or appropriate to effect the acquisition and operation of the disposal facility. Such a donation is conditioned upon the execution of an agreement by a buyer for the acquisition of the pulp and paper mills in the Town of Millinocket and the Town of East Millinocket; the office's endeavoring to identify and implement measures to mitigate the State's closure costs, including the consideration of cost caps on the closure costs, including the consideration

of cost caps on the closure of the Dolby Landfill; and the office's having received from the buyer an acceptable business plan, including employment projections. The office shall undertake all actions the office determines necessary or appropriate to fully perform all obligations established under the contracts.

2. Notwithstanding the Maine Revised Statutes, Title 38, section 1310#U, the municipality in which the disposal facility is located may not regulate the operation or any other aspect of the disposal facility as provided in Title 38, section 2173 or by means of any municipal ordinances, regulations, licenses or permits.

3. If the type of waste permitted to be disposed of at the disposal facility changes, the municipal officers of the Town of East Millinocket and the Town of Millinocket shall establish a joint citizen advisory committee consisting of 7 members, of whom 4 must be from the Town of East Millinocket and 3 must be from the Town of Millinocket. In appointing members to the committee, the municipal officers shall use the Maine Revised Statutes, Title 38, section 2171, subsection 1 as guidance. The committee shall meet as soon as practical following appointment of its members and shall select a chair from among its members. The committee shall establish procedures for the conduct of meetings. The committee may:

- A. Review proposed contracts, site analyses, applications and other documents relating to the expansion, permitting and operation of the disposal facility;
- B. Hold periodic public meetings to solicit the opinions of residents concerning the disposal facility and any permit applications, contracts or other provisions relating to the disposal facility;
- C. Provide the office and the disposal facility operator with suggested contract provisions, permit conditions, plans or procedures the committee considers appropriate; and
- D. Serve as a liaison between the towns and the office and the disposal facility operator to facilitate communications during the development and operation of the disposal facility and provide residents with updated information about the disposal facility, including providing explanations of any technical terms.

4. Nothing in this resolve permits the abrogation of, abrogates or intends to abrogate the sovereign immunity of the State with respect to any agreement authorized under this resolve; and be it further

Sec. 2 Report. Resolved: That, by February 15, 2012, the Executive Department, State Planning Office shall submit a report to the Joint Standing Committee on Environment and Natural Resources on actions taken related to the acquisition of the disposal facility authorized under section 1 and a review of the operations related to that disposal facility.

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