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An Act To Establish the Big Moose Mountain Regional Development Authority

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

Whereas, Big Moose Mountain located near the shores of Moosehead Lake is an important natural and economic resource to the State and the Moosehead Lake region; and

Whereas, the State seeks the fulfillment of public-interest obligations that it imposed in 1986 on property on Big Moose Mountain; and

Whereas, the public-interest obligations include the duty to maintain and operate the ski area and resort on the mountain for the public benefit; and

Whereas, the State is currently engaged in litigation to enforce the performance of those obligations; and

Whereas, in order to ensure that the mountain continues to be open and operated for the benefit of the public, the State may need to acquire or manage the mountain and related property; and

Whereas, a legal entity must be created as soon as possible in order that the State will be in the position to effectively accept, manage or convey the property or portions of the property to achieve the public-interest objectives; and

Whereas, a legal entity must be created as soon as possible in order to develop and implement a strategy to achieve the public-interest objectives; and

Whereas, the effective and successful implementation of such a strategy will not only bring the recreational benefits of a vibrant ski resort to the Moosehead Lake region but also bring significant and desired economic benefits to one of the most economically challenged areas of the State; and

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

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

Sec. 1. 5 MRSA c. 383, sub-c. 3, art. 6 is enacted to read:

ARTICLE 6

BIG MOOSE MOUNTAIN REGIONAL DEVELOPMENT AUTHORITY

§ 13090-N. Big Moose Mountain Regional Development Authority established

The Big Moose Mountain Regional Development Authority is established as a body corporate and politic and a public instrumentality of the State to carry out the provisions and purposes of this article. The authority is established to pursue:

1. Public-interest obligations. The fulfillment of the public-interest obligations embodied in the 1986 deeds of the State conveying title to the properties on Big Moose Mountain;

2. Ski resort. The development and maintenance of a vibrant ski resort on Big Moose Mountain and other related recreational facilities and activities in the Moosehead Lake region; and

3. Recreational and economic benefits. The acquisition, management and conveyance of the Big Moose Mountain 1986 deeded properties and other nearby properties so as to produce recreational and economic benefits to the Moosehead Lake region in a manner similar to other regional development authorities created by the Legislature.

§ 13090-O. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

1. Authority. "Authority" means the Big Moose Mountain Regional Development Authority established in section 13090-N.

2. Authority properties. "Authority properties" means the Big Moose Mountain 1986 deeded properties and the Big Moose Mountain related properties.

3. Big Moose Mountain 1986 deeded properties. "Big Moose Mountain 1986 deeded properties" means the real estate and assets relating to Big Moose Mountain conveyed by deeds of the State in 1986, including any subsequent improvements.

4. Big Moose Mountain related properties. "Big Moose Mountain related properties" means real estate and assets adjacent or nearby to the Big Moose Mountain 1986 deeded properties that are related to the effective and economic operation of a ski resort at Big Moose Mountain.

5. Bond. "Bond" means a bond or note or other evidence of indebtedness authorized under this article, whether issued under or pursuant to a bond resolution, trust indenture, loan or other security agreement.

6. Development. "Development" means any activities undertaken to maintain and operate authority properties for a modern, safe and efficient ski resort and related activities and includes, but is not limited to, the acquisition, management, sale, lease or transfer of authority properties to other parties for development, construction, improvements, management, operation and other activities to make effective and economic use of the properties.

7. Operating revenues. "Operating revenues" means funds available to the authority from fees, fares, rental or sale of property and miscellaneous revenue and interest not otherwise pledged or dedicated.

8. Primary impact community. "Primary impact community" means the Town of Greenville and Piscataquis County.

§ 13090-P. Big Moose Mountain Regional Development Authority; powers; membership; obligations

1. Powers. The authority is a public municipal corporation and may:

A. Sue and be sued;

B. Adopt bylaws or rules consistent with this article for the governance of its affairs;

C. Exercise all of the general powers of corporations under Title 13-C, section 302;

D. Exercise the power of eminent domain;

E. Provide for the public safety by imposing appropriate rules, regulating appropriate use of the authority properties and enforcing laws and rules as they apply to the use of the authority properties;

F. Charge and collect fees, charges and rents for the use of the authority properties and other services and use the proceeds of those fees, charges and rents for the purposes provided in this article, both subject to and in accordance with any agreement with bondholders that may be made as provided in this article;

G. Contract with the Federal Government or its instrumentalities or agencies, this State or its agencies, instrumentalities or municipalities, public bodies, private corporations, partnerships, associations and individuals to carry out the purposes of this article;

H. Accept the cooperation of entities under paragraph G in the construction, maintenance, operation and financing of the development of the authority properties and take necessary actions to utilize that aid and cooperation;

I. Borrow money and apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the Federal Government, the State, a municipality or other public body or from other sources, public or private, for the purposes of this article, give any security that is required and enter into and carry out contracts in connection with that financial assistance;

J. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligation of the authority for the purposes under this article and secure the payment of that obligation or any part of that obligation by pledge of all or any part of the operating revenues of the authority;

K. Enter into loan or security agreements with one or more lending institutions, including, but not limited to, banks, insurance companies and institutions that administer pension funds, or trustees for those institutions, for the issuance of bonds and exercise with respect to those loan or security agreements all of the powers delineated in this article for the issuance of bonds;

L. Provide funds from operating revenues for the maintenance, construction or operation of facilities to ensure the public safety for which the authority has not otherwise provided;

M. Adopt rules pursuant to the Maine Administrative Procedure Act; and

N. Take all other lawful action necessary and incidental to these powers.

2. Membership; appointment. The authority is governed by a board of trustees composed of 10 voting members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and to confirmation by the Senate and one member designated by the Governor under paragraph D.

A. Trustees are appointed for 4-year terms, except that, for initial appointments, 3 trustees are appointed to one-year terms, 3 trustees are appointed to 2-year terms, 2 trustees are appointed to 3-year terms, 2 trustees are appointed to 4-year terms and the commissioner designated pursuant to paragraph D serves at the pleasure of the Governor. A vacancy must be filled in the same manner as the original appointment for the balance of the unexpired term.

B. A trustee continues to hold office until a successor is appointed and qualified, but the term of the successor is not altered from the original expiration date of the holdover trustee's term.

C. The Governor shall make 10 appointments, of which no fewer than 7 must be from candidates who are residents of Piscataquis County and are nominated by one or more of the primary impact communities. The Governor shall appoint members who reflect the diversity of interests that may be represented by these communities.

D. The Governor shall designate a commissioner of a department of State Government to be a voting, ex officio member of the board of trustees.

E. A member appointed to the board of trustees may not hold an elected office in municipal or county government or State Government.

3. Quorum. Six members constitute a quorum. Six affirmative votes are required for the board of trustees to take action.

4. Liability. The liability of the authority is governed by the Maine Tort Claims Act.

5. Expenses. A trustee is not entitled to receive compensation for services to the authority but is entitled to receive reimbursement for necessary expenditures, including travel expenses, incurred in carrying out those services.

6. Officers; employees. The board of trustees shall elect a chair and vice-chair from among its members. The authority may employ an executive director, technical experts and other agents and employees, permanent and temporary, that it requires and may determine their qualifications, duties and compensation. For required legal services, the authority may employ or retain its own counsel and legal staff.

§ 13090-Q. Use of operating revenue

1. Principal use of revenue. Operating revenue must be used principally to invest in the acquisition of authority properties and the maintenance and operation of authority properties for the purposes of this article.

2. Permitted liability limited. All expenses incurred in carrying out this article must be paid solely from funds provided under the authority of this article, and liability or obligation may not be incurred under this article beyond the extent to which money has been provided under the authority of this article.

3. Equal opportunity employers. Contractors and subcontractors on authority construction projects must be equal opportunity employers and, for contracts in excess of \$250,000, shall pursue in good faith affirmative action programs as defined in section 782. The authority may by rule provide for the enforcement of this requirement.

§ 13090-R. Property of authority

The authority shall hold and acquire property as follows.

1. Lease or sale. Properties may be acquired, owned and maintained by the authority, or leased or sold by the authority, to accomplish the purposes of this article as determined appropriate by the authority. Resources acquired as a result of the lease or sale of properties become operating revenues or assets of the authority.

2. Entry upon lands. The authority and its authorized agents and employees may enter upon lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations the authority determines necessary or convenient for the purposes of this article. The entry is not a trespass, but the authority is liable for damages its entry creates.

3. Authority for transfers of interest in land to the authority. Notwithstanding any contrary provisions of law, upon the authority's request, on reasonable and fair terms and conditions and without the necessity for advertisement, order of court or action or formality other than the regular and formal action of the authorities concerned, counties, municipalities, public agencies or instrumentalities of the State, public service corporations and special districts may lease, lend, grant or convey to the authority real or personal property or rights in that property that may be necessary or convenient for the effectuation of the authorized purposes of the authority, including real and personal property or rights

in that property already devoted to public use. As used in this subsection, "public service corporation" includes a public utility as defined in Title 35-A, section 102, subsection 13 and a corporation referred to in Title 13-C.

4. Enforcement on ways under jurisdiction of the authority. A law enforcement officer may enforce the traffic laws under Title 29-A on a way under the jurisdiction of the authority.

§ 13090-S. Special utility districts

The authority may form special utility districts and provide municipal utility services within its jurisdiction. The board of trustees of the authority has the authority of a municipal legislative body for these purposes.

1. Sewer services. The authority may provide sewer services as a sanitary district under Title 38, chapter 11, subchapters 3 and 4. The authority may establish a board of trustees for the sanitary district and appoint the members of the board of trustees or may act as the board of trustees of the district.

2. Solid waste disposal. The authority may provide solid waste disposal services as a refuse disposal district under Title 38, chapter 17. The authority may establish a board of trustees for the refuse disposal district and appoint the members of the board of trustees or may act as the board of trustees of the district.

3. Water. The authority may provide water as a water district under Title 35-A, Part 6. The authority may establish a board of trustees for the water district and appoint the members of the board of trustees or may act as the board of trustees of the district.

4. Electric power. The authority may provide service as a municipal electric district under Title 35-A, chapter 39. The authority may establish a board of trustees for the municipal electric district and appoint the members of the board of trustees or may act as the board of trustees of the district.

5. Revenue-producing services. The authority has all the powers of a municipality to provide services under Title 30-A, chapter 213.

§ 13090-T. Other municipal powers

1. Traffic ordinances. The authority has the power to enact traffic ordinances and regulate the operation of motor vehicles under Title 30-A, section 3009 to the extent that power is not inconsistent with other validly enacted municipal ordinances.

2. Operating expenses. The authority has all the powers of a municipality to raise and appropriate money under Title 30-A, sections 5722 and 5723.

3. Zoning. The authority may not adopt zoning or land use ordinances but may coordinate zoning and land use regulation with interested primary impact communities.

4. Highway maintenance. The authority may maintain, repair, plow and control public ways as a municipality under Title 23, Part 3. The authority shall consult and coordinate with Piscataquis County in appointing a road commissioner.

§ 13090-U. Bonds

1. Hearing required. The authority may issue bonds to finance its activities only after giving notice of the proposed issuance and its terms at least twice in a newspaper of general circulation in Piscataquis County and holding a duly advertised public hearing on the issuance.

2. Credit of State pledged. The authority may ask the State to issue bonds to finance the undertaking of any authorized activity under this article, those bonds to have the full faith and credit of the State. Before any such bonds are issued, they must be authorized by the Legislature and ratified by the electors in accordance with the Constitution of Maine, Article IX, Section 14. Subsections 1 and 3 and subsection 8, paragraphs A and B do not apply to bonds issued under this subsection.

3. Authority. The authority may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this article, including but not limited to the payment of principal and interest upon advances for surveys and plans, and may issue refunding bonds for the payment or retirement of bonds previously issued.

A. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of the authority derived from or held for activities under this article. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution in aid of activities of the authority under this article and by a mortgage of an urban activity or a project or part of a project, title to which is in the authority.

B. Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes.

C. Bonds may not be issued by the authority until the authority has received a certificate of approval from the Finance Authority of Maine authorizing issuance of the bonds. Before issuing a certificate of approval under this section, the Finance Authority of Maine must determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of the authority derived from or held for activities under this article or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the Finance Authority of Maine shall consider the authority's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge the authority reasonable fees and expenses. The issuance by the Finance Authority of Maine of a certificate of approval under this section does not constitute an endorsement of the bonds or the projects or purposes for which those bonds are issued.

4. General characteristics. Bonds authorized under this section may be issued in one or more series. The resolution, trust indenture or mortgage under which the bonds are issued may include the following:

- A. The date or dates borne by the bonds;
- B. Whether the bonds are payable upon demand or mature at a certain time or times;
- C. The interest rate or rates of the bonds;
- D. The denomination or denominations of the bonds;
- E. The form of the bonds, whether coupon or registered;
- F. The conversion or registration privileges carried by the bonds;
- G. The rank or priority of the bonds;
- H. The manner of execution of the bonds;
- I. The medium and place or places of payment;
- J. The terms of redemption of the bonds, with or without premium;
- K. The manner secured; and
- L. Any other characteristics of the bonds.

5. Price sold. The bonds may be:

- A. Sold at not less than par at public sales held after notice has been published in a newspaper of general circulation in the area of operation and in any other medium of publication that the authority designates;
- B. Exchanged for other bonds on the basis of par; or
- C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government.

6. Signatures of outgoing officers; negotiability. If an official of the authority whose signature appears on a bond or coupon issued under this article ceases to be an official before the bond is delivered, the signature is nevertheless valid for all purposes as if the official had remained in office until the delivery. Notwithstanding contrary provisions of law, bonds issued under this article are fully negotiable.

7. Bond recitation; conclusive presumptions. In actions or proceedings involving the validity or enforceability of a bond issued under this article or the security for that bond, a bond reciting in substance that it has been issued by the authority in connection with an activity is conclusively deemed to have been issued for that purpose and the activity is conclusively deemed to have been planned, located and carried out in accordance with this article.

8. No personal liability; not debt of State. Neither the trustees of the authority nor the person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds.

A. The bonds and other obligations of the authority must have stated on their face that they are not a debt of the State and that the State is not liable on the bonds.

B. The bonds or obligations may not be payable out of funds or properties other than those of the authority acquired for the purposes of this article.

9. Bonds as legal investments. Public officers, municipal corporations, political subdivisions and public bodies; banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; insurance companies, insurance associations and other persons carrying on an insurance business; and executors, administrators, curators, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to them or within their control in bonds or other obligations issued by the authority under this article. These bonds or other obligations are authorized security for all public deposits. It is the purpose of this section to authorize persons, political subdivisions and officers, public or private, to use funds owned or controlled by them for the purchase of these bonds or other obligations. This section does not relieve a person of any duty or of exercising reasonable care in selecting securities.

10. Investment of funds; redemption of bonds. The authority may:

A. Invest in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement; and

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price.

§ 13090-V. Interest of public officials, trustees or employees

1. Acquisition of interest. A public official, trustee or employee of the authority may not acquire or hold a direct or an indirect financial or personal interest in:

A. An authority activity;

B. Property included or planned to be included in the authority properties; or

C. A contract or proposed contract in connection with an authority activity.

When an acquisition is involuntary, the interest acquired must be disclosed immediately in writing to the board of trustees of the authority, and the disclosure must be entered in the board's minutes.

2. Present or past interest in property. If a public official, trustee or employee of the authority presently owns or controls, or owned or controlled within the preceding 2 years, a direct or an indirect interest in property known to be included or planned to be included in an authority activity, that public official, trustee or employee must disclose this fact immediately in writing to the board of trustees of the authority and the disclosure must be entered in the board's minutes.

3. Recusal. The public official, trustee or employee of the authority with an interest in a property may not participate in an action by the authority affecting that property.

4. Violation. A violation of this section is a Class E crime.

§ 13090-W. Exemption from execution

1. Property exempt from execution . The property, including funds, of the authority is exempt from levy and sale by virtue of an execution. An execution or other judicial process may not be issued against the authority's property, and a judgment against the authority may not be a charge or lien upon its property.

2. Construction; limitation of application. This section does not:

A. Prohibit the authority from making payments in lieu of taxes to the State; or

B. Apply to or limit the right of an obligee to foreclose or otherwise enforce a mortgage of the authority or to pursue remedies for the enforcement of a pledge or lien given by the authority on its rents, fees, grants or revenues.

§ 13090-X. Termination of the authority

The authority is not dissolved until:

1. Legislature provides for termination. It is terminated by the Legislature; and

2. Payment of bonds, premiums and interest. The bonds, premiums, if any, and interest have been paid or a sufficient amount for the payment of the bonds and interest to maturity or a prior redemption date have been irrevocably set aside in trust for the benefit of the bondholders.

§ 13090-Y. Annual report

1. Annual financial report. The authority shall submit annually to the Governor, the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over economic development matters, not later than 120 days after the close of the authority's

fiscal year, a complete report on the activities of the authority. The report may also be provided to any other member of the Legislature and to any other person. The report must include all of the following for the previous year:

- A. A description of the authority's operations;
- B. An accounting of the authority's receipts and expenditures, assets and liabilities at the end of its fiscal year;
- C. A listing of all property transactions pursuant to section 13090-R;
- D. An accounting of all activities of any special utility district formed under section 13090-S;
- E. A listing of any property acquired by eminent domain under section 13090-P;
- F. A listing of any bonds issued during the fiscal year under section 13090-P;
- G. A statement of the authority's proposed and projected activities for the ensuing year; and
- H. Recommendations regarding further actions that may be suitable for achieving the purposes of this article.

Sec. 2. Initial appointments; inform joint standing committee. The Governor shall inform the Joint Standing Committee on Innovation, Development, Economic Advancement and Business, no later than January 15, 2020, of the initial appointments to the Big Moose Mountain Regional Development Authority pursuant to the Maine Revised Statutes, Title 5, section 13090-P, subsection 2.

Sec. 3. Report to committee. The Big Moose Mountain Regional Development Authority shall report the status of the establishment of the authority to the Joint Standing Committee on Innovation, Development, Economic Advancement and Business during the Second Regular Session of the 129th Legislature.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

BIG MOOSE MOUNTAIN REGIONAL DEVELOPMENT AUTHORITY

Big Moose Mountain Regional Development Authority

Initiative: Provides initial startup and ongoing funds for annual cost of administration and operation activities of the Big Moose Mountain Regional Development Authority.

GENERAL FUND	2019-20	2020-21
All Other	\$400,000	\$250,000
GENERAL FUND TOTAL	\$400,000	\$250,000

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

SUMMARY

This bill establishes the Big Moose Mountain Regional Development Authority to carry out the State's public-interest objectives related to the ski area and resort and other related recreational facilities on Big Moose Mountain and to create economic development benefits in the area of Big Moose Mountain.