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Date: (Filing No. S-)

ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
SENATE
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 324, L.D. 1091, Bill, “An Act To Expand the Availability of Natural Gas to the Citizens of Maine”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 10 MRSA §963-A, sub-§12, as enacted by PL 1985, c. 344, §7, is amended to read:

12. Energy distribution system project. "Energy distribution system project" means an energy distribution system owned, in whole or in part, by an individual, municipality, corporation or other governmental entity or business association and ~~which~~ that uses biomass, peat, solar, waste, water and related dams, wind, wood, coal or natural gas or that distributes or transmits natural gas.

Sec. 2. 10 MRSA §1043, sub-§2, ¶M, as amended by PL 2009, c. 517, §8, is further amended to read:

M. In the case of an Efficiency Maine project, as defined in section 963-A, subsection 10-A, there is a reasonable likelihood that the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 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 authority shall consider Efficiency Maine Trust'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 Efficiency Maine Trust reasonable fees and expenses. The authority may require that it be indemnified, defended and held harmless by Efficiency Maine Trust for any liability or cause of action arising out of or with respect to the bonds. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or other provision of law. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or

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1 contribution from the Federal Government or other source in aid of activities of
2 Efficiency Maine Trust under Title 35-A, chapter 97; ~~and~~

3 **Sec. 3. 10 MRSA §1043, sub-§2, ¶N**, as enacted by PL 2009, c. 517, §9, is
4 amended to read:

5 N. In the case of recovery zone facility bonds, the project will benefit the county or
6 counties in which it is located; ~~and~~

7 **Sec. 4. 10 MRSA §1043, sub-§2, ¶O** is enacted to read:

8 O. In the case of an energy distribution system project regulated by the Public
9 Utilities Commission with respect to rates or terms of service or that requires, for
10 construction or operation, authorization or certification from the commission, the
11 following conditions are met.

12 (1) The energy distribution system project has received all authorizations or
13 certifications from the Public Utilities Commission necessary for construction
14 and operation of the project. The authority may issue a certificate of approval for
15 a project that has received conditional approvals or certifications from the
16 commission, except that the authority's certificate becomes legally effective only
17 upon fulfillment of the conditional provisions of the commission's certificates or
18 approvals. If the commission has approved rates to be charged by the project or
19 has issued a certificate of public convenience and necessity for the project, the
20 authority shall take into consideration any findings and conclusions of law of the
21 commission, including any findings and conclusions pertaining to the need for
22 the project and the financial viability of the project.

23 (2) The authority has reviewed and considered any comments provided by the
24 Director of the Governor's Office of Energy Independence and Security and the
25 Public Advocate.

26 (3) The authority has determined that the applicant is creditworthy and that there
27 is a reasonable likelihood that the revenue obligation securities will be repaid
28 through the revenues of the project and any other sources of revenues and
29 collateral pledged to the repayment of those securities. In order to make these
30 determinations, the authority shall consider such factors as it considers necessary
31 and appropriate in light of the special purpose or other nature of the business
32 entity owning the project and the specific purposes of the project to measure and
33 evaluate the project and the sufficiency of the pledged revenues to repay the
34 obligations, including, but not limited to:

35 (a) Whether the individuals or entities obligated to repay the obligations
36 have demonstrated sufficient revenues from the project or from other sources
37 to repay the obligations and a reasonable probability that those revenues will
38 continue to be available for the term of the revenue obligation securities;

39 (b) Whether the applicant demonstrates a reasonable probability that the
40 project will continue to operate and provide the public benefits projected to
41 be created for the term of the revenue obligation securities;

- 1 (c) Whether the applicant's creditworthiness is demonstrated by factors such
2 as its historical financial performance, management ability, plan for
3 marketing its product or service and ability to access conventional financing;
- 4 (d) Whether the applicant meets or exceeds industry average financial
5 performance ratios commonly accepted in determining creditworthiness in
6 that industry;
- 7 (e) Whether the applicant demonstrates that the need for authority assistance
8 is due to the reduced cost and increased flexibility of the financing for the
9 project that result from authority assistance and not from an inability to
10 obtain necessary financing without the capital reserve fund security provided
11 by the authority;
- 12 (f) Whether collateral securing the repayment obligation is reasonably
13 sufficient under the circumstances;
- 14 (g) Whether the proposed project enhances the opportunities for economic
15 development;
- 16 (h) The effect that the proposed project financing has on the authority's
17 financial resources;
- 18 (i) The financial performance of similar projects;
- 19 (j) The need for the project, as determined by the Public Utilities
20 Commission and as indicated by any comments provided by the Director of
21 the Governor's Office of Energy Independence and Security, other public
22 officials and members of the public;
- 23 (k) The nature and extent of customer commitment to use the project or the
24 fuel or energy the project distributes or transmits; and
- 25 (l) The cost advantages to end users of the fuel or energy to be distributed or
26 transmitted by the project, to the extent those advantages may affect market
27 penetration by the project.

28 **Sec. 5. 10 MRSA §1043, sub-§5** is enacted to read:

29 **5. Assistance.** In considering any request for financial assistance from an applicant
30 for a project regulated by the Public Utilities Commission with respect to rates or terms
31 of service or that requires for construction or operation authorization or certification from
32 the commission, the commission, upon request of the authority, shall provide assistance
33 in analyzing financial, economic or technical issues on which the commission has
34 expertise. At the request of the commission, the authority shall assess the applicant a fee
35 to be paid to the commission to reimburse the commission for any costs incurred by the
36 commission that cannot be absorbed within its existing resources.

37 **Sec. 6. 10 MRSA §1053, sub-§6, ¶A**, as repealed and replaced by PL 1999, c.
38 531, Pt. G, §1, is amended to read:

39 A. The sum of \$330,000,000 consisting of not more than \$275,000,000 for loans and
40 up to \$55,000,000 for use of bond proceeds to fund capital reserve funds for revenue

1 obligation securities issued pursuant to this subchapter relating to loans for electric
2 rate stabilization projects or loans for energy distribution system projects, except that
3 the authority's maximum financial liability for any energy distribution system project
4 may not exceed the limits established annually by the authority;'

5 **SUMMARY**

6 This amendment replaces the bill. The amendment:

7 1. Modifies the definition of "energy distribution system project" under the laws
8 governing the Finance Authority of Maine to include systems that distribute or transmit
9 natural gas;

10 2. Authorizes the Finance Authority of Maine to issue revenue obligation securities
11 relating to energy distribution system projects under the program limits currently
12 established in law for electric rate stabilization projects and provides that loans for energy
13 distribution system projects may not exceed the limits established annually by the
14 authority;

15 3. Establishes standards under which the Finance Authority of Maine may approve
16 providing financial assistance to energy distribution system projects; and

17 4. Requires the Public Utilities Commission, upon request of the Finance Authority
18 of Maine, to provide assistance in analyzing financial, economic or technical issues
19 relating to projects regulated by the commission. At the request of the commission, the
20 Finance Authority of Maine must assess the applicant a fee to reimburse the commission
21 for any costs incurred by the commission that cannot be absorbed within its existing
22 resources.

23 **FISCAL NOTE REQUIRED**

24 **(See attached)**