

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

R.O.S.

L.D. 163

DATE: 4.15.03

(Filing No. S-48)

UTILITIES AND ENERGY

Reported by:

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 86, L.D. 163, Bill, "An Act To Provide Energy Opportunities to Northern Maine"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting in its place the following:

Sec. 1. 10 MRSA §963-A, sub-§49-H, as reallocated by RR 1999, c. 1, §11, is amended to read:

49-H. Transmission facilities project. "Transmission facilities project" means a project approved by the Northern Maine Transmission Corporation, as established in section 9202, to carry out the purposes of chapter 1003 or any electric transmission, gas transmission, energy transfer or electric generation facility, including necessary appurtenances, otherwise proposed to the authority to benefit northern Maine.

Sec. 2. 10 MRSA §1043, sub-§2, ¶J, as amended by PL 1999, c. 484, §6, is further amended to read:

J. In the case of major business expansion projects, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of revenues and collateral pledged to the repayment of those securities. In order to make this determination, the authority shall consider such factors as it considers necessary to measure and evaluate the sufficiency of the pledged revenues to repay the obligations, including:

COMMITTEE AMENDMENT

R. of S.

COMMITTEE AMENDMENT "A" to S.P. 86, L.D. 163

- 2 (1) Whether individuals or entities obligated to repay  
4 the obligations have demonstrated sufficient revenues  
6 from the project or from other sources to repay the  
8 obligations, and a strong probability that those  
10 revenues will continue to be available for the term of  
12 the revenue obligation securities;
- 14 (2) Whether the applicant demonstrates a strong  
16 probability that the project will continue to operate  
18 and provide the public benefits projected to be created  
20 for the term of the revenue obligation securities;
- 22 (3) Whether the applicant demonstrates that the  
24 benefits projected to be created by the project are  
26 enhanced through the use of financing assistance from  
28 the authority;
- 30 (4) Whether the applicant's creditworthiness is  
32 demonstrated by such factors as historical financial  
34 performance, management ability, its plan for marketing  
36 its product or service and its ability to access  
38 conventional financing;
- 40 (5) Whether the applicant meets or exceeds industry  
average financial performance ratios commonly accepted  
in determining creditworthiness in that industry;
- (6) Whether the applicant demonstrates that the need  
for authority assistance is due to the reduced cost and  
increased flexibility of the financing for the project  
that result from authority assistance and not from an  
inability to obtain necessary financing without the  
capital reserve fund security provided by the  
authority; and
- (7) Whether collateral securing the repayment  
obligation is reasonably sufficient under the  
circumstances.

42 Financing assistance for any one major business expansion  
44 project may not exceed \$25,000,000 in loan amount. The  
46 authority may establish, pursuant to rules adopted in  
accordance with Title 5, chapter 375, subchapter ~~II~~ 2,  
application procedures, approval criteria and reasonable  
fees for major business expansion projects; and

48 **Sec. 3. 10 MRSA §1043, sub-§2, ¶K,** as enacted by PL 1999, c.  
50 484, §7, is amended by amending subparagraph (8) to read:

# COMMITTEE AMENDMENT

R.S.

COMMITTEE AMENDMENT "A" to S.P. 86, L.D. 163

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48

(8) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from the authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority; and

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

L. In the case of transmission facilities projects, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other source of revenues and collateral pledged to the repayment of those securities. In order to make this determination, the authority shall consider such factors as it considers necessary and appropriate in light of the special purpose or other nature of the business entity owning the project to measure and evaluate the project and the sufficiency of the pledged revenues to repay the obligations, including:

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

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

(3) Whether the applicant demonstrates that the benefits projected to be created by the project are enhanced through the use of financing assistance from the authority;

(4) Whether the applicant's creditworthiness is demonstrated by factors such as its historical financial performance, management ability, plan for marketing its product or service and ability to access conventional financing;

(5) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;

R. O. S.

COMMITTEE AMENDMENT "A" to S.P. 86, L.D. 163

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48  
50

(6) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority;

(7) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances;

(8) Whether the proposed project enhances the opportunities for economic development;

(9) The effect that the proposed project financing has on the authority's financial resources; and

(10) Whether the Northern Maine Transmission Corporation, as established in section 9202, has recommended the project.

Upon request by the authority, state agencies, including but not limited to the Public Utilities Commission, shall provide necessary assistance to the authority in evaluating the feasibility of the project and its importance for northern Maine. In providing assistance, the Public Utilities Commission shall consider whether the proposed project enhances the competitiveness of the wholesale and retail energy market; how the proposed project is likely to affect energy prices for Maine residents; whether the proposed project will augment or enhance the reliability and stability of the grid; and whether there is likely to be a long-term need for the product as produced by the proposed project.

The authority may establish, pursuant to rules adopted in accordance with Title 5, chapter 375, subchapter 2, application procedures, approval criteria and reasonable fees for transmission facilities projects. Rules adopted by the authority under this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. In addition, the authority may require the applicant to pay the reasonable costs of an evaluation of the project risks by an independent consultant. If the authority directs the applicant to pay for such an independent evaluation of the project, the authority shall make every reasonable effort, in its discretion, to minimize the cost of the evaluation and any delay such an evaluation may cause in authority action.

# COMMITTEE AMENDMENT

RMS

COMMITTEE AMENDMENT "A" to S.P. 86, L.D. 163

2 The authority may not finance any project involving an  
3 electric transmission line capable of operating at 69  
4 kilovolts or more unless the Public Utilities Commission has  
5 issued a certificate of public convenience for the  
6 construction of the line pursuant to Title 35-A, section  
7 3132.

8 **Sec. 5. 10 MRSA §1053, sub-§6**, as repealed and replaced by PL  
9 1999, c. 531, Pt. G, §1, is amended to read:

10 **6. Securities outstanding.** The principal amount of revenue  
11 obligation securities the authority may have outstanding at any  
12 one time, to which subsection 5 is stated to apply in the trust  
13 agreement or other document, may not exceed an aggregate  
14 principal amount equal to ~~\$777,000,000~~ \$877,000,000 as follows:

15 A. The sum of \$330,000,000 consisting of not more than  
16 \$275,000,000 for loans and up to \$55,000,000 for use of bond  
17 proceeds to fund capital reserve funds for revenue  
18 obligation securities issued pursuant to this subchapter  
19 relating to loans for electric rate stabilization projects;

20 B. The sum of \$120,000,000 consisting of not more than  
21 \$100,000,000 for loans and up to \$20,000,000 for use of bond  
22 proceeds to fund capital reserve funds for revenue  
23 obligation securities issued pursuant to this subchapter  
24 relating to loans for major business expansion projects;

25 C. The sum of \$57,000,000 consisting of not more than  
26 \$45,000,000 for loans and up to \$12,000,000 for use of bond  
27 proceeds to fund capital reserve funds for revenue  
28 obligation securities issued pursuant to this subchapter  
29 relating to workers' compensation residual market mechanism  
30 projects;

31 D. The sum of \$150,000,000 less the aggregate outstanding  
32 balance of mortgage loans secured by capital reserve funds  
33 pursuant to section 1032 for all other revenue obligation  
34 securities issued pursuant to this subchapter; and

35 E. The sum of \$120,000,000 consisting of not more than  
36 \$100,000,000 for loans and up to \$20,000,000 for use of bond  
37 proceeds to fund capital reserve funds for revenue  
38 obligation securities issued pursuant to this subchapter  
39 relating to loans for paper industry job retention  
40 projects; and

41 F. The sum of \$100,000,000 consisting of not more than  
42 \$85,000,000 for loans and up to \$15,000,000 for use of bond  
43 proceeds to fund capital reserve funds for revenue  
44 obligation securities issued pursuant to this subchapter  
45 relating to loans for paper industry job retention  
46 projects; and

# COMMITTEE AMENDMENT

H. 818

COMMITTEE AMENDMENT "A" to S.P. 86, L.D. 163

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48  
50

obligation securities issued pursuant to this subchapter relating to loans for transmission facilities projects as defined in section 963-A, subsection 49-H.

The amount of revenue obligation securities issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, as long as proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of revenue obligation securities of the authority that may at any time be outstanding for any purpose, the amounts of the outstanding revenue obligation securities that have been issued as capital appreciation bonds or as similar instruments are valued as of any date of calculation at their then current accreted value rather than their face value.

**Sec. 6. 10 MRSA §9202, sub-§1**, as enacted by PL 1999, c. 513, §6, is amended to read:

**1. Establishment and purpose.** The Northern Maine Transmission Corporation is established as a body corporate and politic and public instrumentality of the State. The corporation is a special purpose corporation formed and managed as a subsidiary of the authority. The exercise by the corporation of the powers conferred by this chapter shall be is deemed the performance of essential public functions. The purpose of the corporation is to ~~examine the need for and viability of and to finance, permit, construct, own and operate electric transmission lines necessary to connect electric utilities in the northern region of the State with the transmission grid of the United States in a manner adequate, in the opinion of the authority, to allow customers serviced by those electric utilities to receive the benefits of service similar to all other electric customers in this State;~~

A. Evaluate electric transmission interconnections between northern Maine and the rest of the United States and Canada, the transmission of natural gas or other energy resources in northern Maine and the construction of additional electric generation facilities in or adjacent to northern Maine; and

B. Examine the need for and viability of and, in its discretion, finance, permit, construct, own in whole or in part, operate or otherwise facilitate the construction or operation of:

(1) Electric transmission lines necessary to connect electric utilities in northern Maine with the transmission grid of the United States or Canada; or

R.S.

2                   (2) Facilities for the transmission of natural gas and  
3                   generation or production and transfer of any other  
4                   energy resources in the northern region of the State.

6                   **Sec. 7. 10 MRSA §9202, sub-§§1-A and 1-B** are enacted to read:

8                   **1-A. Construction; other approvals.** This chapter may not  
9                   be interpreted to exempt the construction, ownership or operation  
10                   of any project or facility from any approval required by law or  
11                   rule, including but not limited to any approval required pursuant  
12                   to Title 35-A, chapter 21, or to alter the franchise rights of  
13                   any transmission and distribution utility.

14                   The corporation may not finance, permit, construct, own in whole  
15                   or in part or operate any electric transmission line capable of  
16                   operating at 69 kilovolts or more unless the Public Utilities  
17                   Commission has issued a certificate of public convenience for the  
18                   construction of the line pursuant to Title 35-A, section 3132.

19                   **1-B. Records disclosure and confidentiality.** Records of  
20                   the corporation, as a subsidiary of the authority, are subject to  
21                   the disclosure and confidentiality provisions governing the  
22                   records of the authority under section 975-A.

23                   **Sec. 8. 10 MRSA §9203, sub-§3,** as enacted by PL 1999, c. 513,  
24                   §6, is amended to read:

25                   **3. Acceptance of proposals for connections.** The  
26                   corporation shall request and receive proposals from public and  
27                   private entities to finance, permit, construct or operate any  
28                   natural gas or electric transmission lines necessary to connect  
29                   electric the facilities of any transmission and distribution  
30                   utilities and natural gas customers in the northern part of the  
31                   State with the transmission grid of and natural gas transmission  
32                   system outside of northern Maine in the United States or Canada,  
33                   and may approve those proposals if they are in keeping with the  
34                   intent of this chapter. If the corporation approves a project,  
35                   the authority may separately consider providing financing for the  
36                   project pursuant to section 1053, subsection 6, paragraph F if  
37                   the proponent of the project submits a completed application to  
38                   the authority.

39                   **Sec. 9. 10 MRSA §9203, sub-§§4, 5 and 6** are enacted to read:

40                   **4. Conduct studies.** The corporation may conduct or fund  
41                   such studies, including, but not limited to, feasibility studies,  
42                   as may be necessary and convenient to the performance of its  
43                   duties.



7.05

COMMITTEE AMENDMENT "A" to S.P. 86, L.D. 163

2           **5. Rulemaking.** The corporation may adopt any rule,  
3 including rules establishing its bylaws, necessary or useful for  
4 carrying out any of its powers or duties. Rules adopted under  
5 this subsection may provide for fees charged for review of  
6 project applications. Rules adopted under this subsection are  
7 routine technical rules pursuant to Title 5, chapter 375,  
8 subchapter 2-A.

10           **6. Contracts.** The corporation may enter into contracts  
11 with the authority for the provision of administrative and  
12 underwriting services.

14           **Sec. 10. 10 MRSA §9204, sub-§2,** as enacted by PL 1999, c. 513,  
15 §6, is amended to read:

16           **2. Administrative expenses.** Costs and expenses of  
17 maintaining, servicing and administering the fund and of  
18 performing any powers or duties under this chapter may be paid  
19 out of amounts in the fund.

22           **Sec. 11. 35-A MRSA §2102, sub-§2-A,** as enacted by PL 1999, c.  
23 513, §7, is repealed.

24           **Sec. 12. 35-A MRSA §3132, sub-§2,** as amended by PL 1999, c.  
25 398, Pt. A, §46 and affected by §§104 and 105, is further amended  
26 to read:

28           **2. Construction of transmission line.** Except as otherwise  
29 provided in subsection 3-A, whenever any transmission and  
30 distribution utility or utilities propose to erect within this  
31 State a transmission line capable of operating at 100 kilovolts,  
32 or more, or a transmission line capable of operating at 69  
33 kilovolts or more that is proposed to be financed, permitted,  
34 constructed, owned in whole or in part or operated by the  
35 Northern Maine Transmission Corporation pursuant to Title 10,  
36 chapter 1003 or financed by the Finance Authority of Maine  
37 pursuant to Title 10, section 1053, subsection 6, paragraph F,  
38 the utility or utilities or project proponent shall file a  
39 petition for the approval of the proposed line. The petition for  
40 approval of the proposed transmission line must contain such  
41 information as the commission by rule prescribes. The petition  
42 for approval must be set down for public hearing. The commission  
43 shall issue its order within 6 months after the petition is filed  
44 unless this period is extended either by agreement of all the  
45 parties or by the commission upon its determination that the  
46 party seeking the extension would, because of circumstances  
47 beyond that party's control, be unreasonably disadvantaged unless  
48 the extension were granted, provided that the party to that time  
49 had prosecuted its case in good faith and with due diligence.

R. 8/8

2 At the time of filing of a petition for approval of a proposed  
4 line under this section, the utility shall send a copy of the  
6 petition by certified mail to the municipal officers of the  
municipality or municipalities in which the line is to be located.

8 **Sec. 13. 35-A MRSA §3132, sub-§§2-A and 2-B** are enacted to  
read:

10 2-A. Other projects requiring approval. The commission  
12 shall by rule or order adopt standards and procedures for  
14 processing an application from an applicant that is not a  
16 transmission and distribution utility for a certificate of public  
18 convenience and necessity under this section for a transmission  
20 line capable of operating at 69 kilovolts or more that is  
22 proposed to be financed, permitted, constructed, owned in whole  
24 or in part or operated by the Northern Maine Transmission  
26 Corporation pursuant to Title 10, chapter 1003 or financed by the  
Finance Authority of Maine pursuant to Title 10, section 1053,  
subsection 6, paragraph F. Except as the commission determines  
otherwise appropriate, the standards and procedures must conform  
as far as possible with those that would apply to an application  
from a transmission and distribution utility. Rules adopted  
pursuant to this subsection are routine technical rules as  
defined in Title 5, chapter 375, subchapter 2-A.

28 2-B. Standards for certain projects. The commission may  
30 deny a certificate of public convenience and necessity for a  
32 transmission line capable of operating at 69 kilovolts or more  
34 that is proposed to be financed, permitted, constructed, owned in  
36 whole or in part or operated by the Northern Maine Transmission  
Corporation pursuant to Title 10, chapter 1003 or financed by the  
Finance Authority of Maine pursuant to Title 10, section 1053,  
subsection 6, paragraph F upon a finding that the line is  
reasonably likely to adversely affect any transmission and  
distribution utility or its customers.

38 **Sec. 14. Appropriations and allocations.** The following  
40 appropriations and allocations are made.

42 **FINANCE AUTHORITY OF MAINE**

44 **Northern Maine Transmission Corporation**

46 Initiative: Provides funds for the cost of conducting an  
48 evaluation of electric transmission interconnections between  
northern Maine and the rest of the United States and Canada, the  
transmission of natural gas or other energy resources in northern  
Maine and the construction of additional electric generation

2015

COMMITTEE AMENDMENT "A" to S.P. 86, L.D. 163

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48  
50

facilities in or adjacent to northern Maine and other feasibility studies as may be necessary.

<b>General Fund</b>	<b>2003-04</b>	<b>2004-05</b>
All Other	\$300,000	\$0
	<hr/>	<hr/>
General Fund Total	\$300,000	\$0

**Northern Maine Transmission Corporation**

Initiative: Provides funds for meeting expenses for the Northern Maine Transmission Corporation.

<b>General Fund</b>	<b>2003-04</b>	<b>2004-05</b>
All Other	\$15,000	\$15,000
	<hr/>	<hr/>
General Fund Total	\$15,000	\$15,000

**FINANCE AUTHORITY OF MAINE  
DEPARTMENT TOTALS**

	<b>2003-04</b>	<b>2004-05</b>
<b>GENERAL FUND</b>	<b>\$315,000</b>	<b>\$15,000</b>
	<hr/>	<hr/>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$315,000</b>	<b>\$15,000'</b>

**SUMMARY**

This amendment replaces the bill. This amendment:

1. Authorizes the Finance Authority of Maine to issue up to \$100,000,000 in moral obligation bonds to fund transmission facilities projects, including projects approved by the Northern Maine Transmission Corporation or other electric or gas transmission or energy generation facilities, to benefit northern Maine;

2. Establishes certain criteria for the issuance of such bonds, allows the Finance Authority of Maine to charge certain fees of applicants and requires electric transmission projects of 69 kilovolts or more to receive a certificate of public convenience and necessity from the Public Utilities Commission;

3. Expands the purposes of the Northern Maine Transmission Corporation to include financing, permitting, constructing, owning, operating or otherwise facilitating the construction or operation of facilities for the transmission of natural gas and generation or production and transfer of any other energy source in northern Maine;

**COMMITTEE AMENDMENT**

R. 018

COMMITTEE AMENDMENT "A" to S.P. 86, L.D. 163

2 4. Clarifies that the records of the Northern Maine  
Transmission Corporation are subject to the same confidentiality  
provisions as the records of the Finance Authority of Maine;

4  
6 5. Authorizes the Northern Maine Transmission Corporation  
to adopt rules and enter into contracts;

8 6. Allows the Public Utilities Commission to deny a  
certificate of public convenience and necessity for an electric  
10 transmission line proposed to be financed by the Northern Maine  
Transmission Corporation or the Finance Authority of Maine if the  
12 commission finds the line is reasonably likely to adversely  
affect any transmission and distribution utility or its  
14 ratepayers; and

16 7. Provides funds for the operation of the Northern Maine  
Transmission Corporation and for it to conduct certain studies.

18

20

**FISCAL NOTE REQUIRED**  
(See attached)

**COMMITTEE AMENDMENT**

121st Maine Legislature  
Office of Fiscal and Program Review



LD 163

An Act to Provide Energy Opportunities to Northern Maine

LR 1626(02)

Fiscal Note for Bill as Amended by Committee Amendment *AS-48*

Committee: Utilities and Energy

Fiscal Note Required: Yes

Fiscal Note

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
<b>Net Cost (Savings)</b>				
General Fund	\$315,000	\$15,000	\$15,000	\$15,000
<b>Appropriations/Allocations</b>				
General Fund	\$315,000	\$15,000	\$15,000	\$15,000

**Fiscal Detail and Notes**

This bill includes General Fund appropriations of \$315,000 in fiscal year 2003-04 and \$15,000 beginning in fiscal year 2004-05 for the Finance Authority of Maine for the operation of the Northern Maine Transmission Corporation and to conduct certain studies. Increasing the Finance Authority of Maine's revenue obligation securities limit by \$100,000,000 extends the moral obligation of the State. Costs associated with reviewing certificates of public convenience and evaluating project feasibility can be absorbed by the Public Utilities Commission utilizing existing budgeted resources.