

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**  
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE  
AT THE

SECOND REGULAR SESSION

January 4, 1978 to April 6, 1978

FIRST SPECIAL SESSION

(No laws enacted)

September 6, 1978 to September 15, 1978

SECOND SPECIAL SESSION

October 18, 1978

THIRD SPECIAL SESSION

December 6, 1978

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**PUBLIC LAWS**  
OF THE  
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obligations incurred and expenditures made and any other matters as the department may require. A final report shall be made when the service or services for which the certificate of need was issued becomes operational. The department, in its rules and regulations, shall prescribe the form and contents of the reports. Any holder of a certificate of need which has been issued for the construction or modification of a facility or portion thereof shall file final plans and specifications therefor with the department within 6 months, or any other time that the department may allow, following the issuance of the certificate for review by the department to determine that the plans and specifications are in compliance with the certificate of need which has been issued therefor and are in compliance with applicable licensure, life safety code and accreditation standards. The department may revoke any certificate of need it has issued when the person to whom it has been issued fails to file reports or plans and specifications required by this section on a timely basis.

**Sec. 2. Appropriation.** The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

	1978-79
HUMAN SERVICES, DEPARTMENT OF	
All Other	\$60,000

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 30, 1978

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## CHAPTER 688

**AN ACT Providing Allocations from the Unappropriated Highway Fund Surplus for Fiscal Year Ending June 30, 1979.**

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

Whereas, the next fiscal year will begin before that 90-day period terminates; 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. 23 MRSA c. 9, sub-c. VI is enacted to read:

## SUBCHAPTER VI

### TOWN WAY BRIDGES

#### § 605. Reconstruction in towns

Municipal officers may petition the Department of Transportation to participate in the cost of reconstruction of bridges on town ways, including highways over railroad bridges. The department shall make the surveys and investigations which it deems important in determining the necessity of reconstructing the bridges and shall be the sole arbiter as to whether the bridges shall be reconstructed under this subchapter.

#### § 606. Apportionment of costs; definitions

The cost of reconstruction of a bridge reconstructed under this subchapter shall be apportioned as follows: Fifty percent to the Department of Transportation and 50% to the municipality; except, when a railroad grade separation structure is reconstructed under this subchapter, the costs shall be shared as provided in section 3411.

The department is authorized to use any eligible federal funds to reduce proportionately the nonfederal shares of the cost of reconstruction.

Whenever the word "municipality" occurs in this subchapter, it shall include towns, cities, organized plantations and unorganized townships and the word "bridge" shall mean only a structure which requires a span of 10 or more feet between the faces of the abutments.

#### § 607. Maintenance

All costs of maintenance of any bridge reconstructed under this subchapter shall be borne entirely by the municipality.

Sec. 2. 23 MRSA § 703, as last amended by PL 1971, c. 593, § 22, is further amended to read:

#### § 703. Access roads to public ski areas

Whenever the municipal officers of one or more municipalities, or the county commissioners if they are acting in the capacity of municipal officers, and the owner or owners of a ski area open to the general public or the owner or owners of a public industrial development area jointly deem it necessary that a road be constructed or reconstructed in the municipality or unorganized township represented by the municipal officers or county commissioners, they may jointly petition the department for the construction or reconstruction of such a road. Following a review of the petition, if the department deems it advisable to do so, it shall arrange for a public hearing to be held for the purpose of allowing the petitioners and others interested in the proposed road or reconstructed road to be heard. Following the hearing, if the department decides construction or reconstruction of such a road is warranted, it may arrange for such construction or reconstruction under the following conditions.

1. **Consent of owner.** Such a road shall be constructed or reconstructed only with the consent of the owner or owners of the land over which the section of road shall be constructed or reconstructed, which owner shall donate the land required in accordance with the requirements of the department. Following donation of the land to the municipality or municipalities or county or counties, the said municipality or municipalities or county or counties which are involved shall lay out the way as a town or county way.

2. **Cost.** The cost of construction or reconstruction shall be paid 50% from the General Highway Fund, 25% from the municipality and county if the road is located in whole or in part in unorganized township or townships, and 25% from the owner or owners of the ski area involved or the owner or owners of the industrial development area involved. Construction or reconstruction shall not be authorized by the department until the owner of the ski area or industrial development area involved gives a bond to the State, approved by the department, to guarantee the payment of the ski owner's or industrial development owner's proportionate share and the municipality or county involved advises the department that its share of funds is available for construction or reconstruction of the access road.

3. **Supervision.** The department shall have the responsibility for the supervision and construction or reconstruction of the road.

4. **Limitation.** No more than ~~2~~ 4 miles of access road in each township or municipality shall be constructed or reconstructed under this section to serve any one ski area or industrial development area.

5. **Prerequisite.** Before the department shall authorize the construction or reconstruction of the road, the department shall determine that there has been expended in developing the facilities of the ski area or industrial development area a minimum of \$100,000 or that there are funds in the amount of at least \$100,000 available to be expended in developing the facilities of the ski area or industrial development area within a time to be established by the department.

**6. Maintenance.** Upon completion of the sections of access road constructed or reconstructed under this section, the municipality or municipalities and county or counties in which the section of highway is located shall assume the responsibility for properly maintaining the road as a public highway.

No such road shall be constructed or reconstructed until the municipalities and counties that are involved have appropriated or raised by taxation or otherwise in such municipalities and counties a sum sufficient to pay to the State their proportionate share of the cost of such access road constructed or reconstructed under this section.

**Sec. 3.** 23 MRSA § 1103, first ¶, as repealed and replaced by PL 1977, c. 405, § 3, is amended by adding at the end the following new sentence:

**Towns may, upon petition of the municipal officers of the town and approval of the department, use up to 3 units of the state aid joint fund of the town toward the town's share of the cost of reconstruction of bridges under chapter 9, subchapter VI.**

**Sec. 4. Allocation from the Unappropriated Highway Fund Surplus.** There is allocated from the Unappropriated Highway Fund Surplus the following sum which shall be segregated, apportioned and expended as designated in the following schedule:

	1978-79
0087 Motor Vehicles - Unallocated	\$70,000
<p>The allocation to the Division of Motor Vehicles shall fund 8 additional employees. Of the total allocation, \$25,000 shall fund 4 Certificate of Title Examiners. These funds shall not be available until December 1, 1978. The remaining funds shall be available on July 1, 1978, to fund one Clerk IV, 2 Clerk Typist II's and one Clerk II.</p>	
0030 Highway - Summer maintenance	\$ 700,000
0035 Highway - Access roads to ski areas unallocated	50,000
0406 Highway - highway and bridge improvements	2,800,000
Highway - town road bridge improvement programs	350,000
Total	<hr/> \$3,970,000

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect July 1, 1978.

Effective July 1, 1978

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## CHAPTER 689

### AN ACT to Reconstruct the Fuel Adjustment Clause.

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

Sec. 1. 35 MRSA § 131, as amended by PL 1977, c. 475, is repealed and the following enacted in its place:

#### § 131. Fuel adjustment clause

1. **Definition.** For the purposes of this section, the words "electric utility" shall mean any electrical company, as defined in section 15, subsection 5, with total assets in excess of \$40,000,000.

2. **Fuel cost.** Subject to the approval of the commission, each electric utility shall include as part of its base rates a reasonable cost for fuel to provide its customers with electricity. The cost of fuel shall include fuel consumed in the electric utility's generating stations and the cost of power purchased, excluding capacity charges, by the electric utility for use in Maine, pursuant to regulations promulgated by the commission under this section. The amount to be included in a utility's base rates shall be determined at the time of general rate adjustment under section 64 or 296 and shall be based upon the utility's reasonable costs of fuel during the test year used for the rate adjustment.

3. **Fuel cost adjustment.** Notwithstanding the requirements of section 69, an electric utility shall adjust its electricity charges to customers to recover increases and to credit for decreases in the cost of fuel used in the generating and supplying of electricity subsequent to a general rate proceeding under section 64 or 296, subject to the conditions of this section.

4. **Scope of adjustment.** Changes in the cost of fuel consumed in the electric utility's generating stations and changes in the cost of power purchased, excluding capacity charges, by the electric utility for use in Maine shall constitute the only items subject to adjustment, pursuant to regulations promulgated by the commission under this section. Credits received by the utility for fuel or the fuel component of either purchased power or power sold to other utilities, including credits associated with purchased energy received from the savings fund of the