

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TENTH LEGISLATURE
4

5 **Legislative Document**

No. 2020
6

7 H. P. 2072 House of Representatives, February 23, 1982
Submitted by the Department of Defense and Veterans Services
pursuant to Joint Rule 24.

8 Referred to the Committee on Aging, Retirement and Veterans.
Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative Hickey of Augusta.
Cosponsor: Representative Drinkwater of Belfast.

9
10 **STATE OF MAINE**
11

12 IN THE YEAR OF OUR LORD
13 NINETEEN HUNDRED AND EIGHTY-TWO
14

15 **AN ACT to Revise the Military Laws of**
16 **the State.**
17

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

19 **Sec. 1.** 37 MRSA §216 is repealed.

20 **Sec. 2.** 37-A MRSA, as amended, is repealed.

21 **Sec. 3.** 37-B MRSA is enacted to read:

22 TITLE 37-B

23 DEPARTMENT OF DEFENSE AND VETERANS' SERVICES

24 CHAPTER 1

25 ORGANIZATION

26 §1. Department of Defense and Veterans' Services

1 1. Purpose. The Department of Defense and Veterans'
2 Services, as established and referred to in this Title as
3 the "department," shall coordinate and improve the discharge
4 of the State Government's responsibility for military, vet-
5 erans services and civil emergency preparedness matters.

6 2. Composition. The department shall consist of the
7 Adjutant General and the following bureaus:

8 A. The Military Bureau;

9 B. The Bureau of Civil Emergency Preparedness; and

10 C. The Bureau of Veterans' Services.

11 3. Personnel. The Adjutant General shall be the Com-
12 missioner of Defense and Veterans' Services. He shall be
13 appointed by and serve at the pleasure of the Governor. He
14 must have the grade not exceeding Major General and must
15 meet the qualifications set forth in section 2, subsection
16 9. The Adjutant General shall administer the department
17 subordinate only to the Governor and shall adopt such
18 methods of administration consistent with law as he may
19 determine necessary to render the department efficient. He
20 is authorized to transfer personnel at his discretion from
21 one bureau to another within the department and is author-
22 ized to prepare a budget for the department. The Deputy Ad-
23 jutant General, duly appointed under section 2, subsection
24 8, shall have all the powers, responsibilities and duties of
25 the Adjutant General in case of the absence of the Adjutant
26 General or his inability to act, or a vacancy in that
27 office, until it is filled by the Governor, as provided by
28 law. The deputy shall not hold any other state office for
29 compensation.

30 4. Directors of bureaus. Each bureau of the depart-
31 ment shall have a director. In addition to being commis-
32 sioner of the department, the Adjutant General shall also be
33 ex officio chief of staff to the Governor as Commander in
34 Chief. The Director of the Military Bureau shall be the
35 Deputy Adjutant General. The Director of Veterans' Services
36 and the Director of Civil Emergency Preparedness shall each
37 be appointed by the Adjutant General and shall serve at the
38 pleasure of the Adjutant General and neither may hold any
39 other state office for compensation. The Director of Vet-
40 erans' Services must be a war veteran and a person qualified
41 by experience, training and a demonstrated interest in vet-
42 erans' services.

43 §2. The Military Bureau

1 1. Purpose. The Military Bureau shall have jurisdic-
2 tion over and responsibility for the administration of the
3 state military forces.

4 2. Commander in Chief. The Governor is the constitu-
5 tional Commander in Chief of the military forces, except for
6 such components thereof as may, at times, be in the federal
7 service of the United States.

8 3. Composition. The military forces of the State con-
9 sist of:

10 A. The Maine Army National Guard and the Maine Air
11 National Guard, referred to in this Title as the
12 "National Guard," when either or both are not in fed-
13 eral service; and

14 B. The militia, the state guard and naval militia when
15 and if organized and mustered by direction of the Gov-
16 ernor pursuant to the authority set forth in subsection
17 24.

18 4. Staff organization. Subject to subsection 5, the
19 Governor, through the Adjutant General, may create, organ-
20 ize, abolish or reorganize such staff sections as he deems
21 necessary or appropriate to provide for the National Guard
22 and other state military forces, and appoint such staff
23 officers as may be necessary to provide for the operation of
24 the staff sections. Officers of these sections shall per-
25 form the duties required of them by law, without limitation,
26 and such other duties as correspond to the duties performed
27 by officers in similar staff sections in the federal mili-
28 tary establishment.

29 5. Staff. The staff of the Governor as Commander in
30 Chief shall consist of:

31 A. The Adjutant General, who shall be commissioner of
32 the department and ex officio chief of staff, a
33 quartermaster general and a paymaster general;

34 B. The senior officers on duty with each of the staff
35 sections organized under subsection 4; and

36 C. Other staff officers appointed from time to time in
37 accordance with subsection 10.

38 6. Functions of Deputy Adjutant General as direc-
39 tor. The Deputy Adjutant General shall control the Military
40 Bureau, subordinate only to the Adjutant General and the

1 Governor, and in connection therewith, without limitation:

2 A. Shall adopt methods of administration, not incon-
3 sistent with the laws, regulations and customs of the
4 federal military establishment, as they may be applica-
5 ble, to render the bureau efficient;

6 B. Shall see that the organization and operation of
7 the National Guard, including without limitation,
8 enlistments, appointments, promotions, transfers, dis-
9 charges, equipping, training, instruction and armament,
10 are consistent with those prescribed or provided by law
11 and regulation of the United States for the National
12 Guard; and, for the Commander in Chief, shall issue
13 such orders and regulations and administrative prac-
14 tices as shall maintain the prescribed standards for
15 this paragraph;

16 C. Shall secure the efficient, fair and proper admin-
17 istration of the Maine Code of Military Justice and may
18 issue regulations appropriate for this purpose;

19 D. Shall superintend the preparation of all informa-
20 tion required of the State by the federal military
21 establishment; and, in accordance with Title 5, sec-
22 tions 43 to 46, shall make a full report to the Gover-
23 nor as to the condition of the military forces, includ-
24 ing all bureau business transactions and detailed
25 statements of expenditures for military purposes;

26 E. Shall be responsible for the care, custody and
27 repair of all military property belonging to or issued
28 to the State for military forces and shall dispose of
29 that property belonging to the State and found unser-
30 viceable, accounting for and depositing the proceeds
31 with the State Treasury to the credit of the Military
32 Fund;

33 F. Shall organize, appoint and reorganize his staff in
34 a manner appropriate in his judgment;

35 G. Shall cause just, appropriate and true records of
36 the operations of the bureau to be kept and maintained;
37 and

38 H. Shall do all other things appropriate or necessary
39 as director to carry out the functions of the Military
40 Bureau.

1 7. Assistant Adjutants General. The Adjutant General
2 may appoint, subject to the approval of the Governor, an
3 Assistant Adjutant General for the Maine Army National Guard
4 and an Assistant Adjutant General for the Maine Air National
5 Guard, each with the qualifications set forth in subsection
6 9, who shall serve at the pleasure of the Adjutant General.
7 Neither may hold any other state office for compensation.
8 The Assistant Adjutant General for the Maine Army National
9 Guard shall be responsible for the general supervision of
10 training and administration of the Maine Army National Guard
11 and the Assistant Adjutant General for the Maine Air
12 National Guard shall be responsible for the general super-
13 vision of training and administration of the Maine Air
14 National Guard.

15 8. Designation of Deputy Adjutant General. The Adju-
16 tant General shall appoint one of the Assistant Adjutants
17 General to serve as Deputy Adjutant General, and the deputy,
18 regardless of rank, shall have the powers, responsibilities
19 and duties of the Adjutant General in the event of the Adju-
20 tant General's absence or inability to act, or in case of a
21 vacancy in the office of the Adjutant General, until the
22 vacancy is filled by the Governor, as provided in this
23 Title. The Deputy Adjutant General shall be the Director of
24 the Military Bureau and, under the direction of the Adjutant
25 General, shall supervise the functions of the bureau under
26 subsection 6.

27 9. Qualifications of Adjutant General and Assistant
28 Adjutants General. No person may be appointed as Adjutant
29 General or Assistant Adjutant General unless, at the time of
30 appointment, he holds or has held a commission of at least
31 field grade or equivalent in the state military forces, the
32 Armed Forces of the United States or a reserve component
33 thereof; he has served at least 5 years in one or more of
34 these services or components and he has met the criteria for
35 federal recognition for the grade held as prescribed by the
36 regulations governing the National Guard of the United
37 States. The appointee must meet, under these regulations,
38 the criteria for federal recognition as a general officer
39 within a reasonable period of time.

40 10. Other staff and aides-de-camp. Except as directed
41 by federal military regulation, all members of the staff of
42 the Commander in Chief must, at the time of their appoint-
43 ment, be commissioned officers in the state military forces
44 or reserve Armed Forces of the United States and residents
45 of the State, on the active or retired list with a rank of
46 at least captain, except no staff officer may be appointed
47 from the retired list unless he has at least 5 years' ser-

1 vice in the National Guard or the Officers' Corps, reserve
2 or regular, of the Army, the last year of which service
3 shall have been no more than 5 years prior to the appoint-
4 ment. The staff may also consist of such aides-de-camp,
5 not to exceed 11 in number, as the Governor may determine;
6 one of whom may be a naval aide with the rank of captain and
7 one of whom may be an Air Force aide with the rank of col-
8 onel. Except as otherwise provided, honorably discharged
9 officers or enlisted personnel who served in the Army, Air
10 Force, Navy or Marine Corps during any war, who are not mem-
11 bers of the state military force may be appointed as aides-
12 de-camp with the rank of colonel. Aides-de-camp may be
13 detailed from the commissioned officers of the state mili-
14 tary force, but officers so detailed shall not be relieved
15 from their regular state military force commission.

16 11. Appointment of officers and enlistment of enlisted
17 personnel; pay and allowances. Except as otherwise provided
18 in this section, the qualifications for the appointment of
19 officers and the enlistment of enlisted personnel of the
20 state military force and the promotions, transfers, dis-
21 charges, equipping, uniforms, instruction, training, elimi-
22 nation, arming and other such matters shall be as the Adju-
23 tant General, acting for and subject to the Governor, deter-
24 mines, provided that the qualifications are consistent with
25 federal regulations and practices now or hereafter pre-
26 scribed for the National Guard. It shall be the duty of the
27 Adjutant General, acting for and subject to the Governor, to
28 issue orders and regulations consistent with these federal
29 regulations and practices to the extent applicable. The pay
30 and allowances of each officer, warrant officer and enlisted
31 man of the state military force ordered by the Commander in
32 Chief or by his authority for active state duty shall be,
33 for each day on duty, the same as that payable to persons of
34 the same branch, grade and classification in the federal
35 military establishment.

36 12. Injuries sustained in connection with duty. Any
37 member of the state military forces who, when on duty or
38 assembled therefor, in case of riot, tumult, breach of the
39 peace, insurrection or invasion, or whenever called into ac-
40 tive service of the State by order of the Governor, or
41 called in aid of the civil authorities, or when participa-
42 ting by order of the Governor in any encampment, maneuvers
43 or field instruction of any part of the regular Army or Air
44 Force at or near any military post or camp or lake or
45 seacoast defenses of the United States, or when participa-
46 ting by order of the Governor in practice marches or camps
47 of instruction, or when assembled for any regular or special
48 drill or other duty under the command of a superior officer,

1 receives any injury, or incurs or contracts any disability
2 or disease by reason of that duty or assembly, or who
3 receives any wound, injury or disease incident thereto while
4 performing any lawfully ordered duty which incapacitates him
5 for his usual business or occupation, shall receive compen-
6 sation according to Title 39, and any amendments thereto, as
7 an employee of this State. For purposes of Title 39,
8 section 62, federal pay and benefits received by the member
9 as a result of any such wound, injury or disease shall be
10 considered to be derived from the employer and will consti-
11 tute a set-off to compensation derived as a result of this
12 subsection. The average weekly wage in these cases shall be
13 taken to be the earning capacity of the injured in the
14 occupation in which he is regularly engaged and, in the case
15 of death, his dependents, if any, shall be entitled to com-
16 pen-sation as provided in Title 39. Any member who suffers
17 injury or contracts disease, not the result of his own mis-
18 conduct, while in attendance at a camp of instruction
19 authorized by the national military establishment and
20 ordered by the Governor, shall receive the pay provided in
21 subsection 11 while he remains in a federal pay status in
22 lieu of the compensation provided for in this subsection.

23 13. Military Bureau accounts and Military Fund. The
24 Military Bureau account is as follows.

25 A. All military accounts, unless otherwise specially
26 provided by law, shall be approved by the person
27 authorized to contract the accounts and transmitted to
28 the Adjutant General for his examination and approval.
29 They shall then be presented to the State Controller.

30 B. For the current expenses of the state military
31 forces, there shall be appropriated biennially such
32 sums as may be necessary for the proper administration
33 of the Military Bureau, which shall be designated as
34 the "Military Fund."

35 14. Retired officers and retired list. Officers shall
36 be retired and placed on the retired list as follows.

37 A. Any officer who accepts an appointment in the Army,
38 Air Force, Navy or Marine Corps of the United States,
39 or who tenders his resignation and the resignation has
40 been accepted, shall receive an honorable discharge,
41 provided that he is not under arrest or returned to a
42 military court for any deficiency or delinquency and
43 provided that he is not indebted to the State in any
44 manner and provided that his accounts for money and
45 public property are correct.

1 B. Any person who has served as a commissioned officer
2 in the state military forces for at least 9 years may,
3 upon personal request, be placed upon the retired list.
4 When placed upon the retired list, an officer shall be
5 given the highest rank held by him and federally recog-
6 nized during his term of service. If, at the time of
7 his retirement, he has served as a commissioned officer
8 in the state military or federal military service for
9 15 years or more, he may be retired with a rank one
10 grade higher than the highest rank held by him during
11 his service. Retired officers are entitled to wear the
12 uniform of the rank with which they were retired.
13 Except as provided, no commissioned officer in the
14 state military or naval forces may be removed from
15 office without his consent, except by sentence of a
16 court-martial or by a board of officers in a manner
17 prescribed by law. Whenever the occasion requires, the
18 Governor, with the officer's consent, may order to ac-
19 tive duty any retired officer, warrant officer or
20 enlisted man, who shall be entitled to pay and emolu-
21 ments of his grade while performing the service.

22 15. Civilian employees. The Commander in Chief may
23 authorize the employment of civilian personnel in organiza-
24 tions in which there are vacancies of necessary personnel
25 when these organizations are on duty under his orders or are
26 called upon in aid of civil authorities. These civilian
27 personnel, during this employment, are subject to the laws
28 and regulations for the government of the state military
29 forces and shall receive pay commensurate with these duties.

30 16. Property and fiscal officer. The Governor shall
31 designate, subject to the approval of the Secretary of the
32 Army or the Secretary of the Air Force, a qualified commis-
33 sioned officer of the National Guard of the State to be the
34 United States Property and Fiscal Officer.

35 A. The status of the United States Property and Fiscal
36 Officer will be that of a National Guard commissioned
37 officer of the Army or Air Force, as appropriate, on
38 extended active duty and detailed with the National
39 Guard Bureau for administrative purposes.

40 B. The United States Property and Fiscal Officer shall
41 give a bond to the United States, the amount of the
42 bond determined by the Secretary of the Army or the
43 Secretary of the Air Force, for the faithful perfor-
44 mance of his duties and for the safekeeping and proper
45 disposition of federal property and funds entrusted to
46 his care.

1 17. Property purchase, inspection, contract authoriza-
2 tion. Property shall be purchased and inspected and contracts
3 for property purchase shall be authorized as follows.

4 A. No officer authorized to make purchases or sales of
5 military property may be concerned, directly or indi-
6 rectly, in the purchase or sale of any such property,
7 except for and on account of the State; nor may any
8 such officer take or apply to his own use any gain or
9 emolument for negotiating or transacting any business
10 of his office other than that allowed by law.

11 B. All property purchased under the authority granted
12 shall be inspected by an officer designated for that
13 purpose by the Adjutant General, and no payment may be
14 made therefor until it appears by the certificate of
15 the inspecting officer that the property is of the kind
16 and quality specified in the contract of purchase.

17 C. No officer or enlisted man may contract or presume
18 to authorize the contracting of any indebtedness on
19 behalf of the State, unless especially authorized to do
20 so or by the express order of the Adjutant General.
21 Any person in the military service who violates this
22 subsection shall be dishonorably discharged and suffer
23 such other punishment as a court-martial may direct.

24 18. Governor; Adjutant General; power to order out
25 state military forces. State military forces may be ordered
26 to active service as follows.

27 A. The Governor may order to active state service any
28 members of the state military forces to execute the
29 laws and perform such duty as the Governor deems appro-
30 priate in case of riot, tumult, breach of the peace,
31 resistance to process or for service in aid of civil
32 authority, whether state or federal, or in time of
33 public danger, disaster, crisis, catastrophe or other
34 public emergency, or to otherwise protect life or prop-
35 erty. If the Governor and his legal successor are ab-
36 sent, disabled or unavailable for communication, the
37 Adjutant General may order out such troops as he
38 believes necessary to meet the emergency. No civilian
39 person except the Governor may command personnel of the
40 military forces.

41 B. In case of a sudden and unexpected tumult, riot,
42 mob or body of people acting together by force with
43 intent to commit a felony or to offer violence to per-
44 sons or property or by force and violence to break and

1 resist the laws of the State or the United States, or
2 of imminent danger thereof, a Justice of the Supreme
3 Judicial Court or of the Superior Court or the sheriff
4 of a county may call for aid upon a commanding officer
5 of the National Guard or other unit of the state mili-
6 tary forces, and the call shall be in writing. The
7 commanding officer upon whom the call is made shall
8 order out, in aid of the civil authorities, the mili-
9 tary or naval forces, or any part thereof, under his
10 command and shall make an immediate report of the case
11 to the Adjutant General and to his immediate commanding
12 officer for further instructions. He shall receive
13 only general directions from the civil authority
14 requesting the aid and shall remain strictly responsi-
15 ble to his military superior for the manner in which
16 the troops shall be used to accomplish the desired end.

17 C. In the event of an emergency so imminent as to re-
18 quire immediate action, the senior officer of a command
19 may, upon request in writing of the mayor of a city,
20 the selectmen of a town or the municipal officers of a
21 municipality, order out, for the defense or protection
22 of the community, the forces under his command, or any
23 part thereof, and immediately report his action and the
24 circumstances of the case to the Adjutant General and
25 to his immediate commanding officer for further
26 instructions.

27 D. A member of the National Guard or other unit of the
28 state military force when called to active duty under
29 this subsection, in addition to such other rights con-
30 ferred by this section and otherwise by law, shall have
31 the rights, authority and immunities of a law enforce-
32 ment officer.

33 19. Proclamation of state of insurrection or emer-
34 gency. A state of insurrection or emergency may be pro-
35 claimed as follows.

36 A. Whenever any portion of the state military force is
37 activated in aid of civilian authority or otherwise
38 under section 18 and if, in the Governor's judgment,
39 the maintenance of law and order will thereby be pro-
40 moted, he may, by proclamation, declare the county or
41 municipality receiving the assistance, or any specified
42 portion or combination thereof, to be in a state of
43 insurrection or emergency, as the case may be.

44 B. In the event of a proclamation of insurrection or
45 emergency, as described in paragraph A, and without

1 limiting any other powers of the Governor, whether
2 inherent or conferred by other existing laws, the Gov-
3 ernor may issue such rules as are issued in good faith
4 and reasonable under the circumstances to avert addi-
5 tional damage, destruction, injury or loss of life,
6 including, but not limited to, emergency rules for cur-
7 fews, the deployment of emergency medical supplies and
8 facilities, evacuations, the closing of liquor, arms,
9 ammunition, explosives or other stores and facilities,
10 access roads, temporary detours and other things,
11 whether of a same or a different nature, all as he may
12 reasonably deem appropriate for the particular emer-
13 gency or crisis.

14 20. Temporary restraining orders and other judicial
15 relief. Judicial relief in connection with the calling up
16 of military forces may be requested as follows.

17 A. In the event of the call up of military forces pur-
18 suant to section 18 and without limiting any powers
19 expressly and inherently possessed by or otherwise
20 rested in the Governor as Commander in Chief, the Gov-
21 ernor, or Adjutant General as his designee, may peti-
22 tion any Superior Court for ex parte temporary
23 restraining orders to restrain unlawful interference
24 with efforts to maintain peace or preserve life and
25 property. The court shall grant such temporary relief
26 as it deems appropriate, but the fact that those inter-
27 fering or threatening obstruction of the efforts are
28 not known or identified by name, or are too numerous to
29 be identified by name, shall not be grounds for the
30 denial of any such order. The motion and any order
31 pursuant to it may make identity in terms of the
32 restraint of persons gathered, located or interfering,
33 and, upon issuance of the order, the Governor shall
34 cause prompt notice of the order and its effect to be
35 broadcast, posted, announced or otherwise publicized so
36 as to reach the persons affected.

37 B. Any person aggrieved by such an order is entitled
38 at any time it is in effect to bring a motion for
39 vacating the order. The motion shall lie in the court
40 from which the order was issued and the moving party
41 shall serve notice of the motion upon the Governor con-
42 current with it being filed, but, until vacated, such
43 order shall remain effective according to its terms.

44 21. Liability. No member of the state military force
45 ordered into the active service of the State may be liable
46 civilly or criminally for any act done or caused, ordered or

1 directed to be done by him in furtherance of and while in
2 the performance of his duty. If an action or proceeding of
3 any nature shall be commenced in any court by any person
4 against any officer or enlisted man of the militia for any
5 act so done or caused, ordered or directed to be done, all
6 expenses of the defense of the proceeding or action, civil
7 or criminal, including fees of witnesses for the defense,
8 defendant's court costs, and all costs for transcripts of
9 records and abstract thereof on appeal, shall be paid by the
10 State out of the Military Fund. Where the action or pro-
11 ceeding is civil, it shall be the duty of the Attorney Gen-
12 eral, either personally or by one or more assistants, to
13 defend that officer or soldier. Where the action or pro-
14 ceeding is criminal, the Adjutant General shall designate a
15 Judge Advocate of the National Guard or other authorized
16 state military or naval forces to conduct the defense of the
17 member, or, if the services of a Judge Advocate are not
18 available, then he shall select some other competent attor-
19 ney to conduct the defense, and the Judge Advocate or other
20 attorney so selected shall receive and be paid out of the
21 Military Fund a reasonable compensation for his professional
22 services. In any civil action or proceeding, the defendant
23 may require the person instituting or prosecuting the same
24 to file security for payment of costs that may be awarded
25 the defendant, which costs, if paid out of the Military
26 Fund, when received, shall be paid into the State Treasury
27 for the benefit of the Military Fund.

28 22. Uniforms and equipment. Uniforms and equipment
29 shall be provided, worn, handled and disposed of as follows.

30 A. All commissioned officers and warrant officers
31 shall provide themselves with such uniforms and equip-
32 ment as are required of them by regulation, consistent
33 with any appropriate federal regulation, and the Adju-
34 tant General may purchase and issue as state property
35 on memorandum receipt or sell for cash to these offi-
36 cers such articles of uniforms and equipment as he
37 deems necessary.

38 B. The clothes, arms, uniforms and equipment furnished
39 by or through the State to or required of a member of
40 the military forces are not subject to any civil ac-
41 tion, distress, execution or sale for debt or payment
42 of taxes.

43 C. It is unlawful for any person not an officer or
44 enlisted man in the federal or state military forces to
45 wear the duly prescribed uniform of any such forces or
46 any distinctive part of the uniform, or a uniform any

1 part of which is similar to a distinctive part of any
2 such duly prescribed uniform. These provisions shall
3 not be construed to prevent such persons as may be
4 authorized by the laws and regulations of the State or
5 the United States from wearing the uniforms. The term
6 "distinctive part of the uniform" in this paragraph
7 shall be construed to mean such parts of the uniform as
8 may be at this time or shall be hereafter designated as
9 "distinctive" by the regulations of the federal mili-
10 tary establishment. Violation of this subsection is a
11 Class E crime.

12 D. Except as otherwise provided by law, the clothes,
13 arms, military outfits and accouterments furnished by
14 or through the State to any member of the state mili-
15 tary forces shall not be sold, bartered, exchanged,
16 pledged, loaned or given away. Any unauthorized person
17 who has possession of any such clothes, arms, military
18 outfits or accouterments so furnished as a result,
19 direct or indirect, of any such unlawful disposition,
20 shall have no right, title or interest therein, but the
21 same may be seized as contraband by any civil officer
22 of the State, and shall thereupon be delivered to any
23 commanding officer or other officer authorized to
24 receive the same, who shall make an immediate report to
25 the Adjutant General. The possession of any such
26 clothes, arms, military outfits or accouterments by any
27 person not a member of the military forces of the State
28 or of the United States shall be presumptive evidence
29 of such sale, barter, exchange, pledge, loan or gift.

30 E. Any person who sells or offers for sale, barter,
31 exchanges, pledges, loans or gives away, secretes or
32 retains after demand made by any officer of the State,
33 civil or military, any clothes, arms, military outfits
34 or accouterments furnished by or through the State to a
35 member of the state military forces, or who receives by
36 purchase, barter, exchange, pledge, loan or gift, any
37 such clothes, arms, military outfits or accouterments,
38 is guilty of a Class E crime.

39 F. The Adjutant General shall, whenever it may be
40 necessary, make arrangements for the repair, cleansing
41 and renovation of all clothes, arms, military outfits
42 or accouterments on hand or issued to any organization
43 of the state military forces. If such repair, cleansing
44 or renovation is due to the default or negligence of
45 any member, the cost shall be charged against any pay
46 due or to become due the member or recovered in the
47 same manner as a forfeiture under the State Code of
48 Military Justice.

1 G. The Adjutant General shall designate an officer to
2 inspect and condemn public military property which has
3 become unfit for use. No property may be sold until it
4 has been inspected and condemned and the condemnation
5 has been approved by the Adjutant General. The pro-
6 ceeds of sales of condemned material, stores, supplies
7 or other public property shall be credited to the Mili-
8 tary Fund.

9 All property furnished by the State shall remain and
10 continue to be the property of the State, to be used
11 for military purposes only, and when not in use shall
12 be kept in the armories or designated places of
13 deposit. Upon order of the Governor, the Quartermaster
14 General is authorized to issue to the municipal offi-
15 cers of any city or town field ordinance of obsolete
16 pattern under such regulations as the Governor may pre-
17 scribe. Every officer receiving public property for
18 military use shall be held responsible for the safe-
19 keeping and the return of the property when requested.
20 He shall account for and make such returns as may be
21 prescribed by the Governor or other proper authority.

22 Any person who willfully or maliciously destroys,
23 injures or defaces any article of military property
24 belonging to the State or the United States, or uses it
25 for other than authorized military purposes, or has or
26 retains the property in violation of laws or regula-
27 tions is guilty of a Class E crime. In case any offi-
28 cer or enlisted man of the state military forces, who
29 has at any time through carelessness or inattention
30 lost, destroyed or suffered to be lost or destroyed any
31 state or government property which has been issued for
32 his use, the Adjutant General shall retain, out of the
33 pay or allowances or moneys due the officer or enlisted
34 man for any military services whatsoever, or shall
35 otherwise effect payment of an amount equal to the
36 value of the property lost or destroyed. That portion
37 of the money which is for state property shall be
38 turned into the Treasurer of State and credited to the
39 Military Fund, and that portion which is for United
40 States property shall be turned into the United States
41 Treasury and credited to the State on its property
42 returns.

43 23. Awards of medals and prizes. The Governor may
44 prescribe the award of medals, prizes, citations and other
45 suitable means of public recognition for distinguished ser-
46 vice, longevity, marksmanship, acts of valor, dependability,
47 meritorious achievement and other qualities. The awards may

1 be made to members of the state military forces or to indi-
2 viduals not members who have rendered appropriate service to
3 the military establishment. The Adjutant General shall
4 develop and issue rules to carry out this provision.
5 Expenses for procurement of these awards shall be provided
6 from the Military Fund.

7 24. State military forces other than the National
8 Guard. State military forces other than the National Guard
9 may be organized as follows.

10 A. In the event the President orders all or part of
11 the National Guard to federal service or if it appears
12 that the National Guard may be ordered to federal ser-
13 vice, or in the event of an emergency, disaster or
14 other occurrence described in subsection 18, or the
15 threat thereof, or for training and readiness in antic-
16 ipation of any occurrence of the actions described in
17 this paragraph, the Governor as Commander in Chief may
18 organize as components of the state military forces
19 such number of army and navy units as he deems neces-
20 sary for such period of time as he directs, to provide
21 for the adequate protection of the State. These compo-
22 nents shall consist of the militia, the naval militia
23 and the state guard, as authorized by law.

24 B. In the event of the organization of such other
25 forces, or any of them, described in paragraph A, the
26 units may be called by the Governor to perform such
27 duties as he directs, including duties that the
28 National Guard would be, or has been, called to per-
29 form, consistent with this subsection and other appli-
30 cable laws. All persons serving in the militia, naval
31 militia and state guard shall be subject to the State
32 Code of Military Justice while in an active state duty
33 status.

34 25. Militia, naval militia, state guard. The follow-
35 ing special provisions apply to the militia, naval militia
36 and state guard when and if organized pursuant to subsection
37 24. Section 2, relating to state military forces, gener-
38 ally, applies, except as specially set forth in this subsec-
39 tion.

40 A. The militia shall consist of all able-bodied citi-
41 zens of the State, or able-bodied persons who have
42 declared their intention to become citizens of the
43 State, who are at least 18 years of age, and who are
44 enlisted or enrolled pursuant to subsection 26, or have
45 been appointed or commissioned, subject to such regula-

1 tions as the Governor as Commander in Chief issues to
2 carry out this subsection.

3 (1) The organization and administration of the
4 militia, including, but not limited to, enlist-
5 ments, appointments, promotions, transfers, equip-
6 ment, uniforms, reductions, instruction, training,
7 armament, elimination and disposition of officers,
8 and reduction and warrants of noncommissioned
9 officers, shall be as the Commander in Chief
10 directs by orders and regulations. These orders
11 and regulations shall be as similar, as the Com-
12 mander in Chief deems appropriate and practicable,
13 to those now or hereafter prescribed by the fed-
14 eral military establishment for the National
15 Guard.

16 (2) The pay and allowances of members of the
17 militia when called to active state duty shall be
18 the same as that paid to members of the National
19 Guard of the same relative rank when in active
20 state service.

21 B. The naval militia shall consist of such persons
22 otherwise qualified for the militia as may be enlisted
23 or as may be appointed or commissioned in the naval
24 militia.

25 (1) The Commander in Chief, acting by and through
26 the Adjutant General, may organize such forces
27 prescribed under this subparagraph as he deems
28 proper. When in his judgment the efficiency of
29 the naval militia will be increased thereby, he
30 may alter, reorganize or disband any or all of the
31 organizations in the naval militia. He may at any
32 time change the organization of the naval militia
33 so as to conform to any organization, or system of
34 drill or instruction which may be adopted for the
35 United States Navy, and to increase and decrease
36 for that purpose the number of officers, warrant
37 officers, chief petty officers, petty officers and
38 enlisted men and to change their grades, titles
39 and designations. The system of administration,
40 drill and instruction of the naval militia shall
41 conform, as nearly as practicable, to that of the
42 United States Navy.

43 (2) The pay and allowances of personnel during
44 active state duty in the naval militia shall be
45 the same as that of personnel of the same relative

1 rank in the United States Navy. Except as pro-
2 vided in this subparagraph, all of the other
3 provisions of this chapter shall apply to the
4 naval militia.

5 C. Pursuant to paragraph A, the Governor may organize
6 and maintain within this State in time of peace, war or
7 other emergency, the state guard, which organization
8 and maintenance shall be consistent with such regula-
9 tions as the United States may prescribe for the orga-
10 nization, standard of training, instruction and disci-
11 pline of these military forces.

12 (1) The state guard upon activation shall be com-
13 posed of officers, commissioned or assigned, and
14 such able-bodied citizens of the State and such
15 other able-bodied persons who have declared their
16 intention to become citizens of the United States
17 as who volunteer therein, or as who are enrolled
18 therein, and who are at least 18 years old. The
19 restriction as to citizenship does not apply to
20 soldiers and sailors who have previously served
21 honestly and faithfully in the United States Armed
22 Services or the National Guard. A person may not
23 become a member of the state guard if he is a
24 member of the National Guard, naval militia or any
25 component of the Armed Forces of the United
26 States, active or reserve.

27 (2) The Governor, acting by and through the Adju-
28 tant General, may from time to time prescribe
29 rules not inconsistent with this section, for the
30 enlistment, designation and location of units, and
31 the organization, administration, equipment,
32 maintenance, training and discipline of these
33 forces. The organization shall not conflict with
34 the laws of the United States or of this State as
35 applicable to the state's military forces, gener-
36 ally. These rules, insofar as the Governor deems
37 practicable and desirable, shall conform to exist-
38 ing laws, rules and regulations governing and per-
39 taining to the National Guard.

40 (3) The Governor, acting by and through the Adju-
41 tant General, shall appoint officers for such
42 units and organizations of the state guard as he
43 may establish in conformance with applicable fed-
44 eral regulations, and these officers shall, sub-
45 ject to removal by the Commander in Chief, exer-
46 cise the same military authority over their

1 several commands as officers of the National
2 Guard.

3 (4) The pay and allowances of members of the
4 state guard when called to active state duty shall
5 be the same as for members of the National Guard
6 of similar rank and qualification for pay pur-
7 poses, but, in the event the state guard is organ-
8 ized for inspections and drill purposes only, this
9 activity shall not be deemed active state duty and
10 no pay will be allowed, but this pay and allow-
11 ances will be allowed upon activation for state
12 duty.

13 (5) The Maine State Guard is not required to
14 serve outside the boundaries of this State, except
15 that all, or any element, may, upon order of the
16 officer in immediate command of the state guard,
17 continue in fresh pursuit of insurrectionists,
18 saboteurs, felons or enemy forces beyond the bor-
19 ders of this State into another state until they
20 are apprehended or captured by such element or
21 until the military or police forces of the other
22 state or the forces of the United States have had
23 a reasonable opportunity to take up the pursuit or
24 to apprehend or capture these persons, provided
25 that the other state has given authority by law
26 for the pursuit by the forces of this State. Any
27 such person who is apprehended or captured in
28 another state by any element of the forces of this
29 State shall without unnecessary delay be surren-
30 dered to the military or police forces of the
31 state in which he is taken or to the United
32 States, but this surrender shall not constitute a
33 waiver by this State of its right to extradite or
34 prosecute the person for any crime committed in
35 this State. For the use of the state guard, the
36 Governor may requisition from the Secretary of the
37 Army such arms, ammunition, clothing and equipment
38 as the Secretary of the Army in his discretion,
39 and under regulations determined by him, may
40 issue, and make available to the state guard the
41 facilities of state armories and their equipment
42 and such other state premises and property as may
43 be available.

44 (6) No civil organization, society, club, post,
45 order, fraternity, association, brotherhood, body,
46 union, league or other combination of persons or
47 civil group may be enlisted in these forces as an
48 organization or unit.

1 (7) Nothing in this subsection may be construed
2 as authorizing these forces, or any part thereof,
3 to be called, ordered or in any manner drafted as
4 such into the military service of the United
5 States and no person may by reason of his enlist-
6 ment or commission in any such forces be exempted
7 from military service under any law of the United
8 States.

9 (8) No person may be commissioned or enlisted in
10 the state guard who has been expelled or dishonor-
11 ably discharged from any military or naval orga-
12 nization of this State, of another state or of the
13 United States, or who has been convicted of a
14 felony in any court of this State, of another
15 state or of the United States.

16 26. Enrollment in state military forces. All citizens
17 who are more than 18 and less than 45 years of age, except
18 those exempted by order of the Governor, who are resident in
19 this State, shall, whenever the Governor deems necessary, be
20 enrolled with state military forces, or any component
21 thereof, in the several municipalities in which they reside,
22 by such registrars, in such manner and according to such
23 regulations as the Governor prescribes. On enrollment and
24 opposite the name of each person who is exempt from duty, or
25 who is serving in the active state or federal military
26 forces, or who is unable by reason of physical disability to
27 perform duty, the registrar shall write the word "exempt"
28 and state in each case the cause of the exemption. The
29 registrars shall subscribe the list and make oath that the
30 list is true to the best of their knowledge and belief; and
31 shall file the list with the clerk of the municipality
32 forthwith; and each clerk shall, within 10 days, make a cer-
33 tified statement of the total number enrolled, the number
34 marked exempt, the number belonging to the state or federal
35 military forces and the number marked disabled, and forward
36 the list to the Military Bureau. Any person claiming exemp-
37 tion shall satisfy the registrar of his right to the exemp-
38 tion and, in case of doubt, the burden of proof shall be
39 upon the person claiming exemption, and the registrar may
40 require him to submit to examination on oath and may admin-
41 ister the oath. Any person knowingly refusing information,
42 or giving false information to a registrar or other author-
43 ized person making the enrollment, of himself or any other
44 person within his knowledge liable to be enrolled, shall for
45 each act of concealment, refusal or giving of false informa-
46 tion be guilty of a Class E crime. The officer making the
47 enrollment shall, within 10 days, report all persons violat-
48 ing this subsection to the Adjutant General.

1 Any registrar neglecting or refusing faithfully to perform
2 the duties of enrolling officer, as required by law, or
3 making any false entry upon these rolls or committing any
4 other fraud therein, shall be guilty of a Class E crime.

5 27. Armories; duty of municipal officers. The municipi-
6 pal officers shall provide for each unit of the National
7 Guard or other state military or naval forces located within
8 the limits of their municipality, land and training area, to
9 include target ranges, the suitability of which shall be
10 determined by the facilities management officer of the Mili-
11 tary Bureau and approved by the Adjutant General. The Mili-
12 tary Bureau may erect, and maintain on the land or sites,
13 armories and other necessary buildings to be used for mili-
14 tary purposes. In accordance with applicable federal law
15 and regulations and after consultation with the municipal
16 officers, the Adjutant General may fix a reasonable sum to
17 be paid by the municipality as a contribution to the cost of
18 erection of these armories and other necessary buildings.
19 Buildings and sites shall be used exclusively for military
20 purposes, unless joint utilization is authorized by regula-
21 tions established by the Adjutant General, and may be
22 jointly used by the National Guard and other reserve compo-
23 nents of the Armed Forces of the United States. In all
24 instances of joint utilization, the armory custodian shall
25 be compensated by and remain an employee of the Military
26 Bureau.

27 The Governor may accept, in the name of the State, donations
28 of real estate and personal property to be used for military
29 purposes by the National Guard or other state military or
30 naval forces, upon such conditions as the donor may pre-
31 scribe. The Governor may prescribe further regulations per-
32 taining to property donated.

33 The Adjutant General may acquire real property by right of
34 eminent domain in the manner prescribed by law for the
35 taking of land for highway purposes, and both real and per-
36 sonal property by purchase, gift or otherwise, for the pur-
37 pose of construction or maintenance of armories, airports,
38 shipyards and other military facilities, including the
39 building or improvement and maintenance of railroads or
40 roads necessary for the more efficient use of these facili-
41 ties for military purposes and the procurement of equipment
42 and supplies for military purposes.

43 To carry out this subsection, there shall be a biennial
44 appropriation known as the Military Fund, in accordance with
45 subsection 13, from which payment shall be made by the
46 Treasurer of State upon vouchers issued by the Adjutant Gen-
47 eral to the State Controller.

1 The legislative body of a municipality may accept by gift or
2 otherwise, or raise money for purchasing, leasing, con-
3 structing and maintaining, real estate and personal property
4 to be used for armories, other necessary buildings and
5 training sites for units of the National Guard, or other
6 state military and naval forces, located in the municipal-
7 ity.

8 All real estate and personal property owned or leased by the
9 State, by any municipality or an organization of the state
10 military or naval forces and used for military purposes, is
11 exempt from all taxation during the period of the ownership
12 or lease and use.

13 28. Unauthorized volunteer service. No unit of the
14 state military forces may perform any voluntary military
15 service, except as authorized by express order of the Gover-
16 nor by and through the Adjutant General.

17 29. Notices for duty. Notices for duty shall be given
18 as follows.

19 A. Notices for state duty at encampments, maneuvers
20 and field instruction shall be given at least 10 days
21 prior to the duty. Notices for other duty may be given
22 when prescribed by the officer issuing the order.

23 B. Notices shall be given orally or by written notice
24 in hand, sent by mail or left at the last and usual
25 place of abode. Orders conspicuously posted during a
26 regular meeting of the unit, not less than 4 days prior
27 to the date fixed in the order, shall be sufficient.

28 C. Where drill dates have been fixed by law, orders or
29 regulations, no further notice is required.

30 30. Closing of stores. Whenever any part of the state
31 military forces is on active state service, pursuant to sub-
32 section 18, the commanding officer of these troops may order
33 the closing of any place where intoxicating beverages, arms,
34 ammunition or explosives are sold. He may also forbid the
35 exchanging or transfer of these articles for the duration of
36 his troops' assignment to that area or its vicinity, not-
37 withstanding any comparable order by a civil official.

38 31. Permission to leave or enter state. No part of
39 the state military forces may leave the State, except in ac-
40 cordance with the United States Code, Title 10, Section 263,
41 of federal law or regulations, and no military organization
42 of another state, except by authority of subsection 40 or of

1 the United States, will enter the State, unless by permis-
2 sion of the Governor.

3 32. Bounds and limits of camps. The bounds and limits
4 of camps may be fixed and intrusion within these limits may
5 be restricted as follows.

6 A. Every commanding officer on duty may fix necessary
7 bounds and limits to his camp or parade, not to include
8 preventing passage along a through road.

9 B. Whoever intrudes within these limits after being
10 forbidden, or resists a sentinel attempting to put or
11 keep him out of these limits, or disturbs, interrupts
12 or otherwise hinders the passage of troops or the dis-
13 charge of their duty, may be confined under guard at
14 the discretion of the commanding officer for not more
15 than 24 hours. This confinement authority may be
16 extended by order of the Governor to a distance of not
17 more than 1/2 mile around the camp. The owners of the
18 intervening security area and their agents shall not be
19 prevented from using, occupying or improving such place
20 in the same manner as usual, to the extent permitted by
21 the commanding officer.

22 C. The commanding officer of any camp or armory may
23 prohibit the introduction or sale of any intoxicating
24 beverage within the necessary or extended limits of the
25 place and he may abate the same as common nuisances.

26 33. Prosecution before civil courts. Unless otherwise
27 provided, offenses against this section, except where com-
28 mitted by a person subject to jurisdiction under the Maine
29 Code of Military Justice or the Uniform Code of Military
30 Justice, may be prosecuted by complaint or indictment before
31 a court of competent criminal jurisdiction. All fines and
32 forfeitures collected under this section shall be paid into
33 the State Treasury and credited to the General Fund.

34 34. Neglect of civil officers to perform
35 duties. Civil officers named in this section, who neglect
36 or refuse to obey the provisions of this section, shall be
37 guilty of a Class E crime.

38 35. Exemption from arrest. Persons belonging to the
39 state military forces are exempt from arrest as follows.

40 A. Every person belonging to the state military forces
41 shall, in all cases except a crime punishable by a
42 maximum term of imprisonment equal to or exceeding one

1 year and breach of the peace, be privileged from arrest
2 while going to, remaining at or returning from any
3 place at which he may be required to attend for mili-
4 tary duty.

5 B. On the day of any military training, inspection,
6 review or election, no officer or soldier required by
7 law to attend the same may be arrested in a civil ac-
8 tion or mesne process, or execution or on a warrant for
9 taxes; nor may he be arrested on the day of annual
10 Thanksgiving; Patriots' Day, the 3rd Monday in April;
11 Memorial Day, the last Monday in May; July 4th; Labor
12 Day, the first Monday in September; Veterans' Day,
13 November 11th; nor Christmas.

14 36. Exemption from jury duty. Every member of the
15 National Guard or other component of the state military ser-
16 vices, while going to, remaining at or returning from any
17 place at which he may be required to attend for military
18 duty, is exempt from all jury duty. Production of a certifi-
19 cate from the claimant's commanding officer that he quali-
20 fies for the exemption is prima facie proof that he is enti-
21 tled to the exemption.

22 37. Additional offenses. The following acts consti-
23 tute criminal offenses.

24 A. Other than under the state military forces, no
25 group of persons may join together as a military orga-
26 nization or as a parade in public with firearms, with-
27 out specific written authorization from the Commis-
28 sioner of Public Safety.

29 Associations wholly composed of honorably discharged
30 servicemen of the United States and the order known as
31 the Sons of Veterans may parade in public with firearms
32 with the specific written authorization of the Commis-
33 sioner of Public Safety. Students in educational
34 institutions where military science is taught as a pre-
35 scribed part of the course of instructions may, with
36 the consent of the Commissioner of Public Safety, drill
37 and parade with firearms in public under the super-
38 vision of their military instructors.

39 Any person violating this subsection is guilty of a
40 Class E crime.

41 B. Whoever knowingly enlists, or causes to be enlisted
42 into the state military forces, a minor under the age
43 of 17 years without written consent of his parent or

1 guardian, or induces such a minor to enlist, is guilty
2 of a Class E crime.

3 C. The commander of any part of the state military
4 forces parading or performing any military duty in any
5 street or highway may require any or all persons to
6 yield the right-of-way to his troops, provided that the
7 transport of the United States mail, the legitimate
8 functions, progress and operations of police, ambu-
9 lances, firefighters and other authorized emergency
10 vehicles shall not be interfered with by the troops.

11 All others who hinder, delay or obstruct any portion of
12 the state military forces when parading or performing
13 their military duty, or who attempt to do so, are
14 guilty of a Class E crime.

15 D. Any person who willfully deprives a member of the
16 state military forces of his employment, prevents his
17 employment, interferes with his employment rights or
18 otherwise obstructs him or his employer with respect to
19 his occupation or business because of his membership in
20 the state military forces, or who dissuades any person
21 from enlisting in the state military forces by threat
22 of injury to his occupation or business, is guilty of a
23 Class E crime.

24 All officials and employees of the State who are mem-
25 bers of the state military forces, or reservists of the
26 United States Armed Forces, shall have a leave of ab-
27 sence from their respective duties, without loss of pay
28 or time, when engaged in all annual training duty days
29 authorized by the Governor or under federal laws and
30 regulations, and without loss of time or leave on all
31 inactive duty, full-time training duty and active duty
32 training days during which they are so engaged.

33 E. No association or corporation organized to promote
34 the trade, occupation or business of its members may by
35 any rule or act discriminate against any member of the
36 state military forces with respect to his eligibility
37 for membership in the association or corporation, nor
38 his right to retain his membership. Whoever aids in
39 enforcing any such rule or action against a member of
40 the state military forces, with intent to discriminate
41 against him, is guilty of a Class E crime.

42 F. Whoever without good cause discriminates against
43 any uniformed member of the state military forces or
44 the United States Armed Forces with respect to the

1 enjoyment of any public place of amusement, the use of
2 any public conveyance, access to public lodging or the
3 receipt of other services generally available to the
4 public is guilty of a Class E crime.

5 G. Whoever unlawfully molests, interferes with or
6 abuses any member of the state military forces while in
7 the performance of his duty is guilty of a Class E
8 crime.

9 H. Whoever willfully wears the badge or button, or
10 other insignia of the badge or button, or does so to
11 obtain aid or assistance within the State, unless he is
12 entitled to use or wear them under the regulations of
13 the United States Armed Forces or regulations issued by
14 the Adjutant General, is guilty of a Class E crime.

15 I. It is unlawful to sell, expose or offer for sale,
16 pawn or pledge, buy or loan money on any military
17 badge, button, decoration or other insignia issued
18 under the regulations of the Adjutant General for the
19 state military forces. Whoever violates this subsec-
20 tion is guilty of a Class E crime.

21 38. National Guard group life insurance. The Adjutant
22 General may enter into insuring agreements with authorized
23 insurance companies for group life insurance on behalf of
24 each participating national guardsman called to state active
25 duty and to pay from departmental funds the cost of each
26 individual's premium for this insurance. Any insurance
27 agreement entered into under authority shall be reviewed and
28 approved by the Superintendent of Insurance before it
29 becomes effective.

30 All insurance policies and certificates thereof shall be
31 issued by an insurance company licensed by the Bureau of
32 Insurance to do business in the State.

33 39. Human health emergencies. Personnel and equipment
34 of the National Guard may be used in case of human health
35 emergencies as follows.

36 A. In the event of illness or injury creating an emer-
37 gency which requires specialized personnel of the
38 National Guard or specialized equipment of the National
39 Guard to prevent human suffering or loss of life, the
40 Governor may order into active service of the State or
41 in aid of any civil authority such personnel and equip-
42 ment of the National Guard or other component of the
43 state military forces as he deems proper.

1 B. Any person ordered into active service of the State
2 for the purposes of this subsection is immune from
3 civil liability for damages to the same extent as any
4 person who renders assistance pursuant to Title 14,
5 section 164.

6 C. At least 30 days before the end of each fiscal
7 year, the Adjutant General shall prepare an accounting
8 of all expenses incurred pursuant to this subsection
9 since any prior accounting and shall present this ac-
10 counting to the Commissioner of Human Services for pay-
11 ment pursuant to Title 22, section 3185.

12 D. In addition to other payments authorized by Title
13 22, section 3185, the Department of Human Services
14 shall, upon receipt of an annual accounting as author-
15 ized under this subsection, transfer to the Department
16 of Defense and Veterans' Services a sum, not to exceed
17 \$10,000, from money appropriated pursuant to Title 22,
18 section 3185, as reimbursement for costs of rendering
19 emergency medical service.

20 40. Fresh pursuit by forces of other states. Any
21 military forces or organization, unit or detachment thereof
22 of another state, who are in fresh pursuit of insurrection-
23 ists, saboteurs, enemies, felons or enemy forces, may con-
24 tinue the pursuit into this State until the military or
25 police forces of this State or the forces of the United
26 States have had a reasonable opportunity to take up the pur-
27 suit or to apprehend or capture such persons and are author-
28 ized to arrest or capture such persons within this State
29 while in fresh pursuit. Any such person who is captured or
30 arrested by the military forces of the other state while in
31 this State shall, without unnecessary delay, be surrendered
32 to the military or police forces of this State to be dealt
33 with according to law. This subsection shall not be con-
34 strued so as to make unlawful any arrest in this State which
35 would otherwise be lawful.

36 41. Registration during war; proclamations; hotel
37 manager's duty. Whenever a state of war exists or is immi-
38 nent between the United States and any foreign country, the
39 Governor may by proclamation direct and require every sub-
40 ject or citizen of the foreign country within this State to
41 appear within 24 hours after the proclamation or within 24
42 hours after his arrival in this State, whichever is later,
43 before such public authorities as the Governor may in the
44 proclamation direct, and then and there the subject or citi-
45 zen of the foreign country shall personally register his
46 name, residence, business, length of stay and such informa-

1 tion as the Governor may from time to time in the procla-
2 mation prescribe.

3 The person in control, whether owner, lessee, manager or
4 proprietor of each hotel, inn, boardinghouse, rooming house,
5 building and private residence, shall within 24 hours after
6 the proclamation notify the public authorities of the pres-
7 ence of every subject or citizen of that foreign country,
8 and shall each day notify the public authorities of the
9 arrival and departure of every such subject or citizen. A
10 failure to comply with all requirements of any such procla-
11 mation, or to do or perform any of the acts provided in this
12 subsection is a Class D crime.

13 42. Flag to be carried. The flag of the State to be
14 carried by the National Guard shall be the same as the flag
15 described in Title 1, section 206, with the addition of a
16 scroll in red below the coat of arms of the State bearing
17 the inscription, "Maine National Guard."

18 43. New organizations. When authorized by the
19 national military establishment, new organizations may be
20 raised on petition to the Governor or by his order. When
21 the minimum number of persons required by law has been
22 enlisted and notice given to the Governor, he shall order an
23 inspection to be made by an officer of the National Guard
24 and, if it is found that the conditions contemplated by law
25 for federal recognition can be met by the new organization,
26 the Governor shall appoint commissioned officers therefor
27 and request an inspection to be made by an officer of the
28 national military establishment with a view to federal
29 recognition.

30 44. National Guard Association. The commissioned
31 officers of the National Guard may organize themselves into
32 an association. The name of the association shall be "The
33 National Guard Association of the State of Maine." The
34 association may adopt a constitution and bylaws, not repug-
35 nant to law, orders or regulations, and alter and amend the
36 bylaws, and may take and hold such real and personal prop-
37 erty as may be necessary for the purposes of the associa-
38 tion.

39 45. The Enlisted National Guard Association of the
40 State of Maine. The enlisted personnel of the National
41 Guard may organize themselves into an association. The name
42 of the association shall be "The Enlisted National Guard
43 Association of the State of Maine." The association may
44 adopt a constitution and bylaws, not repugnant to law,
45 orders or regulations, and alter and amend the bylaws, and

1 may take and hold such real and personal property as may be
2 necessary for the purposes of the association.

3 46. Discharge. An enlisted person discharged from
4 service in the National Guard or other state military or
5 naval forces shall receive a discharge in such form and with
6 such classification as is or shall be prescribed for the
7 federal military establishment, and discharges may be given
8 prior to the expiration of periods of enlistment under such
9 regulations, not inconsistent with those established by the
10 federal military establishment for the government of the
11 National Guard, as the Governor may prescribe.

12 §3. Bureau of Veterans' Services

13 1. Purpose. The purpose of the Bureau of Veterans'
14 Services, as established and referred to in this section as
15 the "bureau," is to provide informational services, program
16 assistance, memorial facilities and financial aid to vet-
17 erans in the State and their dependents in order to insure
18 that they receive all entitlements due them under the law,
19 are relieved to the extent possible of financial hardship,
20 receive every opportunity for self-improvement through
21 higher education and are afforded proper recognition for
22 their service and sacrifice to the nation.

23 2. Director and personnel. The Director of Veterans'
24 Services, referred to as the "director:"

25 A. Shall be appointed in accordance with section 1,
26 subsection 4, and shall supervise and administer the
27 operation of the bureau, subordinate only to the Adju-
28 tant General; and

29 B. Subject to the Personnel Laws, may employ the per-
30 sonnel necessary to administer this section. With the
31 approval of the Adjutant General, the director may make
32 such expenditures as are necessary to carry out this
33 section. All full-time permanent employees, except
34 clerical employees, shall be war veterans.

35 3. Powers and duties of director. The director has
36 the following powers and duties.

37 A. The director may make such reasonable rules as are
38 necessary to carry out this section in accordance with
39 the Maine Administrative Procedure Act, provided that
40 regulations pertaining to the management of the Vet-
41 erans' Memorial Cemetery are not rules within the mean-
42 ing of Title 5, section 8002, subsection 9.

1 B. To secure for veterans and their dependents the
2 benefits provided by federal law and to supplement
3 these benefits where permitted by state law, the direc-
4 tor shall act as the agent of any resident of this
5 State having a claim against the United States for any
6 compensation, pension, insurance, loan or other benefit
7 accruing as a result of any federal military service;
8 and, in cooperation with all agencies, public and pri-
9 vate, shall prosecute such claim without charge.

10 C. The director shall establish and maintain a perma-
11 nent record of all members of the armed services from
12 this State who served during time of war and any inter-
13 vening period since December 7, 1941. The contents of
14 all documents pertaining to any claim for benefits
15 under this section, whether pending or adjudicated,
16 shall be deemed confidential and privileged. No dis-
17 closure may be made thereof without the written consent
18 of the claimant, provided that disclosure may be made:

19 (1) To the claimant personally, as to matters
20 concerning himself alone, where, in the director's
21 judgment, the disclosure would not be injurious to
22 the claimant's physical or mental health, or to
23 the claimant's duly appointed guardian or duly
24 authorized representative holding a power or
25 appointment approved by the director;

26 (2) To the representative of a veterans' orga-
27 nization holding power of appointment from the
28 claimant, provided that the organization is recog-
29 nized by the United States Government and duly
30 certified as such by the state department of the
31 organization;

32 (3) To any court of competent jurisdiction, when
33 required by the process of the court, in an action
34 pending under the laws of this State or the United
35 States; and

36 (4) To any public or private agency engaged in
37 health, welfare, rehabilitation or child placement
38 work, from whom a veteran or his dependents have
39 requested services, where in the director's judg-
40 ment disclosure is essential to the proper evalu-
41 ation of the request.

42 When a copy of any public record is required by the
43 Veterans' Administration to be used in determining the
44 eligibility of any person to participate in benefits

1 made available by the Veterans' Administration, the
2 official custodian of that public record shall without
3 charge provide the applicant for these benefits, or any
4 person acting on his behalf or the authorized repre-
5 sentative of the Veterans' Administration, with a cer-
6 tified copy of that record.

7 D. The director shall perform such other duties as may
8 be provided under this Title.

9 4. Veterans' Memorial Cemetery.

10 A. With the consent of the Governor, the director may
11 acquire by eminent domain on behalf of the State, or by
12 purchase, gift or otherwise, real estate in fee simple
13 or any interest therein to provide for and maintain a
14 Veterans' Memorial Cemetery, referred to as the "ceme-
15 tery," not to exceed 200 acres in extent which shall be
16 located near the center of population of the State.
17 When land is so taken by eminent domain, proceeding
18 shall be in accordance with Title 35, chapter 263.

19 B. The director shall appoint a competent and trust-
20 worthy cemetery superintendent and shall provide such
21 personnel, material and equipment as is necessary for
22 adequate maintenance of the cemetery. The superinten-
23 dent shall be an honorably discharged war veteran, or a
24 war veteran currently a member of the armed services in
25 nonactive or reserve status.

26 C. Monument, buildings and markers.

27 (1) The director shall acquire and cause to be
28 erected a suitable monument in the center of the
29 cemetery. The monument shall be suited to the to-
30 pography of the land and shall display, on suit-
31 able flag poles, the national emblem and the state
32 flag in accordance with the Flag Code.

33 (2) The immediate area surrounding the monument
34 shall be prepared and reserved as a suitable place
35 for commemorating Memorial Day and other appropri-
36 ate observances. The remaining grounds shall be
37 laid out in a wheel-like pattern around the monu-
38 ment, expanding from the center as required.
39 Suitable buildings may be erected for such pur-
40 poses as the director deems necessary.

41 (3) All grave markers shall be flat-type granite
42 as furnished by the Department of the Army, Memo-

1 rial Division, or flat-type granite facsimiles
2 thereof. All boxes used for burial shall be pro-
3 ected with permanent vaults. Stones and vaults
4 shall not be provided at state expense.

5 D. Burials.

6 (1) As used in this paragraph, unless the context
7 otherwise indicates, the following terms have the
8 following meanings.

9 (a) "Eligible dependent" means the wife,
10 husband, surviving spouse, unmarried minor
11 child or unmarried adult child who became
12 incapable of self-support before reaching the
13 age of 18 on account of mental or physical
14 defects.

15 (b) "Eligible veteran" means any person who
16 served on active duty in the United States
17 Armed Forces during any federally recognized
18 period of conflict, including the Korean cam-
19 paign and the Vietnam War, or was eligible
20 for an Armed Forces Expeditionary Medal or
21 campaign medal, and who:

22 (i) If discharged, received an honor-
23 able discharge or a general discharge
24 under honorable conditions, provided
25 that the discharge was not upgraded
26 through a program of general amnesty;
27 and

28 (ii) Was a resident of Maine at the
29 time of his entering military service,
30 his death or the death of an eligible
31 dependent.

32 (c) "Federally recognized period of con-
33 flict" means World War I, April 6, 1917, to
34 November 11, 1918; if service was in Russia,
35 the ending date shall be March 31, 1920;
36 World War II, December 7, 1941, to December
37 31, 1946; Korean conflict, June 27, 1950, to
38 January 31, 1955; and the Vietnam War, August
39 5, 1964, to May 7, 1975.

40 (2) Any person who is an eligible veteran may be
41 buried in the cemetery without charge.

1 (3) An eligible dependent of a veteran may be
2 buried in the cemetery if, at the date of the
3 dependent's death, the veteran would be eligible
4 for such burial. Dependents may be buried in
5 graves adjacent to the veteran without charge,
6 provided that:

7 (a) If the veteran dies first, the depend-
8 ents specify in writing their intention to be
9 so buried;

10 (b) If the dependent dies first, the veteran
11 specifies in writing his intention to be bur-
12 ied in the cemetery; or

13 (c) Eligible family members of servicemen or
14 veterans who are permanently buried overseas,
15 buried at sea, missing in action and declared
16 dead, or whose bodies are inaccessible for
17 other reasons, may be buried in this cemetery
18 providing that the deceased servicemen or
19 veteran was eligible for the burial at the
20 time of his death.

21 (4) The plots shall be reserved as indicated and
22 a permanent record of all burials shall be kept.

23 (5) Remains of eligible veterans previously bur-
24 ied in other locations may be reinterred in the
25 cemetery upon request, provided that no cost other
26 than that which would be incurred in an original
27 burial may be borne by the State.

28 (6) This subsection shall not be construed to
29 oblige the bureau beyond the furnishing of a grave
30 site, opening and closing of the grave and mainte-
31 nance thereafter in perpetuity of the grave and
32 the cemetery.

33 5. Relief of poor veterans. The burial expenses of
34 poor veterans or their widows shall be paid as follows.

35 A. Whenever any person who has served in the Armed
36 Forces of the United States and was honorably dis-
37 charged therefrom dies, and at the time of his death is
38 a resident of this State and in destitute circum-
39 stances, the State, through the Bureau of Veterans'
40 Services, shall pay the necessary expenses of his bur-
41 ial; or whenever the widow of any person who has served
42 in the Armed Forces of the United States and was honor-

1 ably discharged therefrom dies, and at the time of her
2 death is a resident of this State and is in destitute
3 circumstances and has no kindred living within this
4 State and of sufficient ability legally liable for her
5 support, the State, through the Bureau of Veterans'
6 Services, shall pay the necessary expenses of her bur-
7 ial. These expenses shall not exceed the sum of \$400 in
8 any case, and the burial shall be in some cemetery not
9 used exclusively for the burial of the pauper dead.

10 B. The municipal officers of the city or town in which
11 the deceased, mentioned in paragraph A, resided at the
12 time of his death shall pay the expenses of his burial,
13 and, if he dies in an unincorporated place, the town
14 charged with the support of paupers in the unincor-
15 porated place shall pay the expenses. In either case,
16 upon satisfactory proof by the town or city to the
17 Bureau of Veterans' Services of the fact of the death
18 and payment, the State shall refund to the town or city
19 the amount paid. The person whose burial expenses are
20 paid in accordance with this paragraph and paragraph A
21 shall not be constituted a pauper.

22 6. Financial aid to veterans and dependents. The fol-
23 lowing financial aid shall be available to veterans and
24 their dependents.

25 A. Assistance for veterans' dependents.

26 (1) As used in this paragraph, unless the context
27 indicates otherwise, the following terms have the
28 following meanings.

29 (a) "Child" means a person who is a legiti-
30 mate child of a veteran and includes a:

31 (i) Foster child;

32 (ii) Legally adopted child;

33 (iii) Stepchild, if a member of the
34 veteran's household either at the time
35 of application or, in the event of the
36 veteran's death, at the time of death,
37 and who thereafter continues as a member
38 of the household;

39 (iv) Illegitimate child, where the vet-
40 eran has been judicially ordered or
41 decreed to contribute to his support, or

1 judicially decreed to be the putative
2 father or has acknowledged under oath
3 and in writing that he is the father of
4 the child;

5 (v) Illegitimate child, where the vet-
6 eran is the mother of the child and con-
7 tributes to the support of the child; or

8 (vi) In order to receive assistance
9 under this subsection, the child must be
10 under the age of 18; over 18 but under
11 the age of 20, if found to be regularly
12 attending school; or over 18 and not
13 attending school if, prior to reaching
14 age 18, the child becomes or has become
15 permanently incapable of self-support by
16 reason of mental or physical defect.

17 (b) "Federally recognized period of con-
18 flict" means World War I, April 6, 1917, to
19 November 11, 1918, March 31, 1920, if service
20 in Russia; World War II, December 7, 1941, to
21 December 31, 1946; Korean conflict, June 27,
22 1950, to January 31, 1955; and Vietnam War,
23 August 5, 1964, to May 7, 1975.

24 (c) "Parent" means the father or mother of a
25 veteran with whom the veteran lived during
26 his minority and for whom he would be legally
27 responsible under the laws of this State; or
28 the foster mother or father of the veteran.

29 (d) "Spouse" means the legally married
30 spouse of a living veteran, not divorced, or
31 the unremarried spouse of a deceased veteran,
32 not previously divorced.

33 (e) "Veteran" means any person who served in
34 the United States Armed Forces during any
35 federally recognized period of conflict and
36 was not dishonorably discharged; is disabled
37 and a resident of the State; or is deceased
38 and at time of death was a resident of the
39 State, except that a veteran of the Vietnam
40 War shall not be a veteran under this para-
41 graph unless he has served on active duty for
42 a period of more than 90 days, or less than a
43 90-day period if he died in service, or was
44 discharged for a service-connected disability

1 and any part of such active duty service
2 occurred after August 4, 1964.

3 (2) Financial aid shall be granted to the needy
4 spouse, child or parent, residing in the State, of
5 a veteran. Temporary absences from the State
6 shall not be cause for forfeiture of aid. The
7 bureau shall endeavor to give preference to appli-
8 cations in which death or disability of the vet-
9 eran is due to service, or may be so presumed by
10 the bureau. The bureau shall require satisfactory
11 proof of disability and its effect on the
12 veteran's ability to provide for himself and his
13 dependents.

14 (3) Applications for aid shall be made to the
15 bureau in the manner prescribed by the bureau by
16 regulation, and may be made by a dependent of a
17 disabled or deceased veteran or by any person
18 recognized by the bureau as entitled to act on
19 behalf of that dependent.

20 (4) The bureau shall determine the amount of aid
21 which shall be granted with due regard to:

22 (a) The resources of the veteran and his
23 dependents and the necessary expenditures and
24 conditions applicable in each case;

25 (b) What aid is sufficient, when added to
26 all other income and resources available, to
27 provide the dependents with a reasonable sub-
28 sistence compatible with decency and health;
29 and

30 (c) Budgetary standards compiled by the
31 bureau which reasonably reflect current costs
32 of average standards of living.

33 (5) The bureau shall administer all funds appro-
34 priated for the purpose of carrying out this sub-
35 section. The bureau shall issue regulations
36 necessary to administer all funds appropriated for
37 this subsection in accordance with the Maine
38 Administrative Procedure Act, Title 5, chapter
39 375.

40 (6) Aid approved by the bureau and audited by the
41 State Controller shall be paid by the Treasurer of
42 State and may, in the discretion of the bureau, be

1 paid to any person who it may designate for the
2 benefit of eligible dependents.

3 (7) Any person who is denied a pension under sub-
4 section 5 or 6 or who is denied or is not satis-
5 fied with the amount of aid allotted to him by the
6 bureau has the right of appeal to the director.
7 Each applicant for a pension or for aid shall be
8 advised, at the time a decision on his application
9 is made, of his right of appeal and of the method
10 and time for making the appeal. The appellant
11 shall be provided with reasonable notice and a
12 fair hearing, at which the director or a member of
13 the bureau authorized by him shall hear all evi-
14 dence pertinent to the matter at issue and render
15 a decision thereon in the name of the director,
16 within a reasonable time after the hearing. On
17 request of the appellant, the director shall pro-
18 vide that the hearing be recorded in writing or on
19 tape. A copy of the record shall be provided to
20 the appellant at his request and expense. An
21 appeal to the Superior Court may be had in accor-
22 dance with the Maine Administrative Procedure Act,
23 Title 5, chapter 375, subchapter VII.

24 (8) Any applicant eligible for aid under this
25 subsection who is eligible for public assistance
26 under any state law for which federal funds are
27 available shall receive public assistance. Aid
28 may be granted under this subsection pending
29 receipt of the public assistance by eligible
30 applicants.

31 B. Educational benefits for veterans' dependents.

32 (1) As used in this paragraph, unless the context
33 indicates otherwise, the following terms have the
34 following meanings.

35 (a) "Child" means the child of a veteran and
36 the child:

37 (i) Is at least 16 years of age;

38 (ii) Has graduated from high school;
39 and

40 (iii) Is not over 21 years of age at
41 the time of first entering a vocational
42 school or an educational institution of

1 collegiate grade; or, if over 21 years
2 of age upon such entry, is not over 25
3 years of age and had been unable to
4 enter before age 21 due to service in
5 the Armed Forces of the United States.

6 (b) "Spouse" means the legally married
7 spouse of a living veteran, not divorced, or
8 the unremarried spouse of a deceased veteran,
9 not previously divorced from that veteran.

10 (c) "Veteran" means any person who served in
11 the military or naval forces of the United
12 States and entered the service from this
13 State or resided in this State for 5 years
14 immediately preceding application for aid and
15 who:

16 (i) Was killed in action;

17 (ii) Died from a service-connected dis-
18 ability as a result of such service;

19 (iii) Is living and is determined to
20 have a total disability, permanent in
21 nature, resulting from a service-con-
22 ected disability as a result of such
23 service;

24 (iv) At the time of death was totally
25 and permanently disabled due to service-
26 connected disability, but whose death
27 was not related to the service-connected
28 disability; or

29 (v) Is a member of the Armed Forces on
30 active duty who has been listed for more
31 than 90 days as missing in action, cap-
32 tured or forcibly detained or interned
33 in the line of duty by a foreign govern-
34 ment or power.

35 (2) The bureau shall pay to any person qualifying
36 as a spouse or child of a veteran a maximum of
37 \$300 per year toward the cost of higher education,
38 not exceeding 6 consecutive academic years nor 8
39 semesters of attendance from the date of first
40 entrance while receiving benefits. This assis-
41 tance shall be used for the purpose of providing
42 tuition, matriculation fees, board, room rent,

1 books and supplies. Assistance under this subsection
2 shall not be paid to any eligible person
3 receiving benefits under subparagraph (3).

4 (a) The director may waive the limitation of
5 6 consecutive academic years in those
6 instances where the recipient's education has
7 been interrupted by severe medical disability
8 or illness making continued attendance impos-
9 sible.

10 (3) Qualified spouses and children of veterans
11 who are attending state supported post-secondary
12 vocational schools or institutions of collegiate
13 grade shall be admitted free of tuition.

14 (4) Appropriations for the administration of this
15 subsection shall be determined from the recom-
16 mendation of the director, who shall furnish esti-
17 mates of the costs of carrying out this subsection
18 in the same manner as other appropriations accru-
19 ing to the bureau.

20 C. Whoever knowingly makes a false statement, oral or
21 written, relating to a material fact in support of
22 application for aid under these sections shall be
23 guilty of a violation of Title 17-A, section 353.

24 7. Authority to receive federal funds. The bureau
25 shall have the authority to accept any federal funds under
26 any federal law now in effect or hereafter enacted which
27 makes these funds available to the states for:

28 A. The furnishing of information to veterans and their
29 beneficiaries and dependents concerning their rights
30 under laws of the United States and the states relating
31 to these benefits;

32 B. Providing assistance in making application for
33 these benefits;

34 C. Furnishing information and assistance respecting
35 reemployment and other matters concerning the readjust-
36 ment of veterans to civilian life; and

37 D. Meeting such federal requirements regarding the
38 administration of federal funds as may be conditions
39 precedent to the receipt of these funds.

1 8. Maine Veterans' Small Business Loan Act. The Maine
2 Veterans' Small Business Loan Authority Board is created and
3 established a body corporate and politic, in this subsection
4 called the "loan authority board," and is constituted a
5 public instrumentality of the State, and the exercise by the
6 loan authority of the powers conferred by this subsection is
7 deemed and held to be the performance of essential govern-
8 mental functions.

9 A. The loan authority board shall consist of 10 mem-
10 bers, including the Director of Veterans' Services; the
11 Treasurer of State or his designee, ex officio, as a
12 nonvoting member; and 8 members-at-large appointed by
13 the Governor for a period of 4 years, provided that of
14 the members first appointed, 2 shall be appointed for a
15 term of one year, 2 for a term of 2 years, 2 for a term
16 of 3 years and 2 for a term of 4 years. The designee
17 of the Treasurer of State shall be the Deputy Treasurer
18 of State. A vacancy in the office of an appointive
19 member, other than by expiration, shall be filled in
20 like manner as an original appointment, but only for
21 the remainder of the term of the retiring member.
22 Appointive members may be removed by the Governor for
23 cause. The loan authority board shall elect one of its
24 members as chairman, one as vice-chairman, one as
25 treasurer, and shall employ a manager, who shall be the
26 secretary. The secretary and treasurer shall be bonded
27 as the loan authority board directs. Five members of
28 the loan authority board constitute a quorum. The
29 affirmative vote of 5 members present and voting is
30 necessary for any action taken by the loan authority
31 board. No vacancy in the membership of the loan
32 authority board may impair the right of the quorum to
33 exercise all rights and perform all duties of the loan
34 authority board.

35 All members of the loan authority board shall be reim-
36 bursed for their actual expenses necessarily incurred
37 in the performance of their duties and by a stipend of
38 \$50 each day for each authorized meeting attended.

39 The manager shall be appointed by the Director of Vet-
40 erans' Services with the approval of the loan authority
41 board and his tenure of office shall be at the pleasure
42 of the director. He shall receive such compensation as
43 shall be fixed by the director with the approval of the
44 loan authority board.

45 The manager shall be the chief administrative officer
46 for the loan authority board and as such shall direct

1 and supervise the administrative affairs and technical
2 activities of the loan authority board in accordance
3 with rules and policies as set forth by the loan
4 authority board. It is the duty of the manager among
5 other things to:

6 (1) Attend all meetings of the loan authority
7 board and to act as its secretary and keep minutes
8 of all its proceedings;

9 (2) Approve all accounts for salaries, daily pay,
10 allowable expenses of the loan authority board, or
11 any employee or consultant thereof, and expenses
12 incidental to the operation of the loan authority
13 board;

14 (3) Appoint, under the Personnel Law, such
15 employees as the loan authority board may require
16 and such assistants, agents or consultants as may
17 be necessary for carrying out the purposes of this
18 subsection;

19 (4) Make to the loan authority board and the
20 Bureau of Veterans' Services an annual report
21 documenting the actions of the loan authority
22 board and such other reports as the loan authority
23 board may request;

24 (5) Make recommendations and reports to the loan
25 authority board on the merits of any proposed eli-
26 gible project; and

27 (6) Perform such other duties as may be directed
28 by the loan authority board in the carrying out of
29 the purposes of this subsection.

30 No member of the loan authority board may participate
31 in any decision involving insurances of payments on a
32 loan if the member has any interest in or connection
33 with any firm, partnership, corporation or association
34 which intends to rent, lease or otherwise use the prop-
35 erty securing the loan.

36 B. The board may:

37 (1) Adopt rules for the regulation of its affairs
38 and the conduct of its business;

39 (2) Adopt an official seal and alter the seal at
40 pleasure;

1 (3) Maintain an office at such place or places
2 within the State as it may designate;

3 (4) Sue and be sued in its own name and to plead
4 and be impleaded. Service of process in any ac-
5 tion shall be made by service upon the manager of
6 the board, either in hand or by leaving a copy of
7 the process at the office of the manager, and upon
8 the Attorney General in like manner;

9 (5) Enter into agreements with the prospective
10 borrowers and lenders for the purpose of planning,
11 designing, constructing, acquiring, altering and
12 financing eligible projects;

13 (6) Acquire, hold and dispose of real and per-
14 sonal property and make and enter into all con-
15 tracts, leases, agreements and arrangements neces-
16 sary or incidental to the performance of its
17 duties and the execution of its powers under this
18 subsection;

19 (7) Accept from a federal agency, loans or grants
20 for the planning or financing of any eligible
21 project, and enter into agreements with such
22 agency respecting any such loans or grants; and

23 (8) Do all acts and things necessary or conven-
24 ient to carry out the powers expressly granted in
25 this subsection.

26 C. The Maine Veterans' Small Business Loan Authority
27 may insure the payment of up to 80% of mortgage loans,
28 secured by eligible projects, and to this end the faith
29 and credit of the State is pledged, consistent with the
30 terms and limitations of the Constitution of Maine,
31 Article IX, Section 14-E.

32 D. The loan authority board may in its discretion
33 expend out of the fund such moneys as may be necessary
34 for any expenses of the loan authority board, including
35 administrative, legal, actuarial and other services.
36 All such expenses incurred by the loan authority board
37 shall be paid by the loan authority board and shall be
38 charged to the fund. All proceeds received by the loan
39 authority board, from the disposal by sale or in some
40 other manner of property it may have acquired in accor-
41 dance with this subsection, shall be credited to the
42 fund.

1 E. As used in this subsection, unless the context
2 indicates otherwise, the following terms have the fol-
3 lowing meanings.

4 (1) "Borrower" means the original borrower under
5 a note and his successors and assigns, and is
6 limited to veterans who are citizens of the State,
7 resident in the State.

8 (2) "Cost of project" means the cost or fair
9 market value of lands, buildings, real estate
10 improvements, fishing vessels, new machinery and
11 equipment, including the installation thereof,
12 stock, merchandise, used machinery and equipment,
13 property rights, easements, franchises, financing
14 charges, interest, engineering and legal services,
15 plans, specifications, surveys, cost estimates,
16 studies and other expenses as may be necessary or
17 incident to the development, construction, financ-
18 ing and placing in operation of an eligible
19 project.

20 (3) "Eligible loan" means any business or recrea-
21 tional facilities or any lands, buildings, real
22 estate improvements or machinery and equipment,
23 merchandise and stock, with auxiliary real and
24 personal property, located within the State, used
25 by a commercial, industrial, manufacturing,
26 mining, fishing or agricultural enterprise, sales
27 and service, the manufacturing, processing, assem-
28 bling or preparing for market of raw materials or
29 other products, or for the purposes of research
30 and development for such enterprises.

31 (4) "Federal agency" means and includes the
32 United States, the President of the United States
33 and any department of or corporation, agency or
34 instrumentality heretofore or hereafter created,
35 designated or established by the United States.

36 (5) "Lender" means the original lender of funds
37 and his successors and assigns approved by the
38 authority, and may include all insurance compa-
39 nies, trust companies, banks, investment companies
40 and savings banks, executors, trustees and other
41 fiduciaries, including pension and retirement
42 funds.

43 (6) "Loan payments" mean periodic payments called
44 for by the note, including, but not limited to,

1 payments covering interest, installments of prin-
2 cipal, taxes and assessments, loan insurance pre-
3 miums and hazard insurance premiums.

4 (7) "Maturity date" means the date on which the
5 loan indebtedness would be extinguished if paid in
6 accordance with periodic payments provided for in
7 the note.

8 (8) "Mortgage" means a first lien on an eligible
9 project, such as commonly given to secure advances
10 on, or the unpaid purchase price of, real estate
11 or personal property under the laws of the State,
12 together with the credit instruments, if any,
13 secured thereby.

14 (9) "Resident" means anyone who entered the Armed
15 Forces of the United States from this State or who
16 has established a legal residence in this State of
17 at least 6 months' duration immediately prior to
18 making application for a loan under this subsec-
19 tion and who has received certification as an eli-
20 gible Maine resident veteran from the Bureau of
21 Veterans' Services.

22 (10) "Veteran" means any person who has served in
23 the Armed Forces of the United States on active
24 duty during World War I, World War II, the Korean
25 conflict or Vietnam War, not dishonorably dis-
26 charged. A veteran of the Vietnam War shall have
27 served on active duty for a period of more than 90
28 days, except if he was discharged for a service-
29 connected disability after that date, any part of
30 which occurred after August 4, 1964, and before
31 May 7, 1975.

32 F. Veterans' Small Business Loan Insurance Fund.

33 (1) There is established a Veterans' Small Busi-
34 ness Loan Insurance Fund, in this subsection
35 referred to as the "fund," which shall be used by
36 the loan authority board as a nonlapsing, revolv-
37 ing fund for carrying out this section. This fund
38 shall initially be the sum of \$200,000. To this
39 sum shall be charged any and all expenses of the
40 loan authority board in connection with its opera-
41 tion under this section, including interest and
42 principal payments required by loan defaults, and
43 to the sum shall be credited all income of the
44 board, including loan insurance premiums and sale
45 disposal, lease or rental proceeds.

1 (2) Money in the fund, not needed currently to
2 meet the obligations of the loan authority board
3 in the exercise of its responsibilities as insurer
4 as provided for in this subsection, shall be
5 deposited with the Treasurer of State to the
6 credit of the fund or may be invested in such man-
7 ner as is provided for by statute.

8 G. If from time to time, in the opinion of the loan
9 authority board, the addition of money to the fund may
10 be required to meet obligations, the loan authority
11 board shall, in writing, request the Governor to pro-
12 vide money in such amounts as may be necessary for the
13 purpose. The Governor shall transfer to this fund suf-
14 ficient money for that purpose from the State Conting-
15 ent Account or from the proceeds of bonds to be issued
16 as provided in this subsection. If bonds are to be
17 issued, the Governor shall order the Treasurer of State
18 to issue bonds in the amount requested, but not exceed-
19 ing in the aggregate at any one time outstanding the
20 amount set forth in the Constitution of Maine, Article
21 IX, Section 14-E, as it may from time to time be
22 amended, to mature serially or made to run for such
23 periods as the Governor may determine, but none of them
24 shall run for a longer period than 20 years and at such
25 rates of interest and on such terms and conditions as
26 the Governor determines. The bonds issued shall be
27 deemed a pledge of the faith and credit of the State.

28 H. The loan authority board may upon application of
29 the proposed lender insure loan payments required by
30 the first mortgage on any eligible project, upon such
31 terms and conditions as the loan authority board may
32 prescribe, provided the aggregate amount of principal
33 obligations of all mortgages so insured outstanding at
34 any one time shall not exceed \$4,000,000. To be eligi-
35 ble for insurance under this subsection, a loan shall:

36 (1) Be one which is to be made and held by a
37 lender approved by the loan authority board as
38 responsible and able to service the loan properly;

39 (2) Have a maturity satisfactory to the loan
40 authority board;

41 (3) Contain complete amortization provisions
42 satisfactory to the loan authority board, requir-
43 ing periodic payments by the mortgagor, which
44 shall include principal and interest payments,
45 cost of local property taxes and assessments, land

1 lease rents, if any, hazard insurance on the prop-
2 erty and such loan insurance premiums as are re-
3 quired under this subsection;

4 (4) Contain such terms and provisions with
5 respect to property insurance, repairs, altera-
6 tions, payment of taxes and assessments, default
7 reserves, delinquency charges, default remedies,
8 anticipation of maturity, additional and secondary
9 liens and other matters as the loan authority
10 board may prescribe; and

11 (5) Involve a principal obligation not to exceed
12 \$30,000.

13 No right or payment or proceeds of any loan made under
14 this subsection or statutes supplementary thereto may
15 be subject to garnishment, attachment or execution of
16 claim of any other creditor other than the lender; nor
17 may any such right or payment be capable of assignment
18 except under such terms as may be prescribed by the
19 manager.

20 I. The loan authority board may fix loan insurance
21 premiums for the insurance of loan payments under this
22 section. These premiums shall be computed as a per-
23 centage of the principal obligation of the loan out-
24 standing at the beginning of each year. These insur-
25 ance premiums shall not be less than 1/2 of 1% per year
26 nor more than 2% per year of the outstanding principal
27 obligation. These premiums shall be payable by the
28 lenders in such manner as is prescribed by the loan
29 authority board.

30 J. The loan authority board may take assignments of
31 insured loans and other forms of security and may take
32 title by foreclosures or conveyance to any eligible
33 project when an insured loan thereon is clearly in de-
34 fault and when in the opinion of the loan authority
35 board such acquisition is necessary to safeguard the
36 loan insurance fund and may sell, or on a temporary
37 basis, lease or rent, such eligible project for a use
38 other than that specified.

39 K. Loans insured by the loan authority board are made
40 legal investments for all insurance companies, trust
41 companies, banks, investment companies, savings banks,
42 savings and loan associations, executors, trustees and
43 other fiduciaries, pension or retirement funds.

1 L. The loan authority board may insure a loan to a
2 borrower with less than full collateral or even no col-
3 lateral other than the loan proceeds, provided that the
4 borrower is of good character and has a good personal
5 credit record.

6 M. When a loan insured under this subsection is
7 clearly in default, the loan authority board may assent
8 to the extension of the time of payment of the insured
9 loan, may extend the insurance thereon accordingly and
10 may waive loan insurance premiums thereon, when in the
11 opinion of the loan authority board any such action is
12 necessary to safeguard the fund.

13 N. The loan authority board shall keep proper records
14 of accounts and shall make an annual report of its con-
15 dition to the Superintendent of Banking.

16 O. No member of the loan authority board, agent or
17 employee thereof may divulge or disclose any informa-
18 tion obtained from the records and files or by virtue
19 of the person's office concerning the name of any
20 lessee or tenant or information supplied by any lessee,
21 tenant or lender in support of an application for loan
22 insurance. Annual returns filed with the loan author-
23 ity board by a lender, lessee or tenant is privileged
24 and confidential.

25 9. Maine Veterans' Home. There is established in the
26 State a home known as the "Maine Veterans' Home."

27 A. The home shall be primarily for support and care of
28 honorably discharged veterans, in this subsection
29 referred to as members who served in the Armed Forces
30 of the United States in any war, including the Korean
31 conflict and Vietnam War.

32 B. The administration of the home is vested in the
33 Board of Trustees of Maine Veterans' Home. The board
34 shall consist of 9 members, one of whom shall be the
35 Director of Veterans Services who shall serve without
36 term. The remaining trustees shall be appointed by the
37 Governor to serve terms of 3 years. All trustees of
38 the board shall be honorably discharged war veterans
39 and one member shall be appointed from and shall repre-
40 sent each of the largest veterans' organizations, not
41 exceeding 5, which are nationally chartered and have a
42 department in this State. The remaining members shall
43 be appointed at large. Three of the trustees shall be
44 appointed for a term of one year, 3 shall be appointed

1 for a term of 2 years and 2 shall be appointed for a
2 term of 3 years at the time of the initial appoint-
3 ments. Appointments thereafter shall be for the
4 regular term of 3 years. In the event of a vacancy,
5 the successor shall be appointed to complete the unex-
6 pired term. Each trustee shall continue to hold office
7 until his successor is appointed and qualified.

8 C. The board shall meet at least 6 times annually and
9 adhere to the same fiscal year as the State. At its
10 first meeting each fiscal year, the board shall elect a
11 chairman and secretary for the fiscal year. The board
12 shall hold its first meeting in July of each year.
13 Five members shall constitute a quorum. Special meet-
14 ings may be called by agreement of a majority of the
15 trustees. The board shall adopt such rules as are
16 necessary to administer the home, to provide for just
17 charges for maintenance of members, to determine the
18 admittance and discharge of members and generally to
19 oversee the operation of the home. In making these
20 rules, the board shall seek comments and information
21 from home staff, members, members' families and other
22 relevant sources, but the Maine Administrative Proce-
23 dure Act regarding rulemaking, Title 5, chapter 375,
24 subchapter II, shall not apply. The board shall
25 appoint an administrator to administer the home. The
26 board may apply for any grants-in-aid, federal or
27 otherwise, to which the State or the Maine Veterans'
28 Home may be eligible.

29 D. The Maine Veterans' Home is a body corporate. In
30 addition to any other powers granted by this subsec-
31 tion, the Maine Veterans' Home may:

32 (1) Make and execute contracts and all other
33 instruments necessary or convenient for the exer-
34 cise of its powers and functions under this sub-
35 section;

36 (2) Acquire real or personal property, or any
37 interest therein, including rights or easements,
38 on either a temporary or long-term basis in the
39 name of the home by gift, purchase, transfer,
40 foreclosure, lease or otherwise; hold, sell,
41 assign, lease, rent, encumber, mortgage or other-
42 wise dispose of any real or personal property, or
43 any interest therein, or mortgage interest owned
44 by it or in its control, custody or possession;
45 and release or relinquish any right, title, claim,
46 lien, interest, easement or demand however ac-
47 quired, including threat of foreclosure;

1 (3) Lease or rent any lands, buildings, struc-
2 tures, facilities or equipment from or to private
3 parties to effectuate the purposes of this subsec-
4 tion;

5 (4) Procure insurance against any loss in connec-
6 tion with its property and other assets in such
7 amounts and from such insurers as it deems desir-
8 able;

9 (5) Receive, on behalf of the State, all bequests
10 and donations that may be made to improve the gen-
11 eral comfort and welfare of the members of the
12 veterans' home or for the betterment of the home;

13 (6) Borrow funds, not in excess of \$1,000,000 in
14 the aggregate, to make and issue bonds, negotiate
15 notes and other evidences of indebtedness or obli-
16 gations of the veterans' home for prudent and
17 reasonable capital, operational and maintenance
18 purposes. The home may secure payments of the
19 obligations, or any part thereof, by pledge of any
20 part of the revenues or assets of the home avail-
21 able for the pledge and which may be lawfully so
22 pledged, or by mortgage of any part, or all, of
23 any property owned by the home. The home may do
24 all lawful things necessary and incidental to
25 those powers. The home may borrow money from the
26 Federal Government and agencies thereof and from
27 state agencies and from any other source. The
28 home may borrow money from the State subject to
29 approval by the Treasurer of State and the Gover-
30 nor. Bonds, notes and other evidences of
31 indebtedness issued under this subsection shall
32 not be deemed to constitute debts of the State,
33 nor a pledge of the credit of the State, but shall
34 be payable solely from the funds of the home; and

35 (7) Do any act necessary or convenient to exer-
36 cise the powers granted or reasonably implied in
37 this subsection.

38 E. The administrator shall be an honorably discharged
39 war veteran and shall administer the home in accordance
40 with the rules, guidelines and general policy as may be
41 established by the board. He shall serve an indefinite
42 term, but may be removed for cause by the board. His
43 salary shall be set by the board. The administrator
44 shall hire, subject to the Personnel Law, the necessary

1 employees to operate the home and, whenever possible,
2 shall give preference in hiring to war veterans. The
3 administrator shall be encouraged to live on the
4 grounds of the home, in quarters owned and maintained
5 by the home if available and, if so, he shall pay tele-
6 phone and electrical charges attributable to his domi-
7 cile, but shall not be required to pay rent, heating
8 costs or repairs and renovations.

9 F. Veterans desiring admission to the home shall make
10 application on forms prescribed by the administrator
11 and admission shall be made by the administrator only
12 to veterans who were residents of this State at the
13 time of their entry into the Armed Forces of the United
14 States, or who have been residents of this State at
15 least 3 years prior to requesting admission, and to the
16 spouses of such veterans, providing suitable facilities
17 are available. Admission shall be granted when provi-
18 sions of the rules are met, when there is a vacancy and
19 in order of application, unless otherwise provided in
20 the rules.

21 G. Each member shall pay to the State such share of
22 the costs of his maintenance as he can afford and as
23 prescribed in the rules.

24 H. The board of trustees may receive, on behalf of the
25 State, all bequests and donations that may be made to
26 improve the general comfort and welfare of the members
27 or for the betterment of the home.

28 I. Funds shall be deposited with the Treasurer of
29 State by the administrator from members for their
30 maintenance, the United States Treasury and other funds
31 given or granted to the home, other than state appro-
32 priations.

33 J. All funds received by the Treasurer of State shall
34 be held by him in a permanent continuous fund to be
35 drawn upon by the administrator of the home for support
36 and maintenance of the home as it is required. A per-
37 centage of these funds shall be placed in reserve for
38 capital improvement expenditures, as approved by the
39 board of trustees. The board of trustees shall operate
40 the home, when constructed, as a self-liquidating
41 project until all the bonds issued as provided by this
42 chapter are retired.

43 K. The board shall make an annual report to the Govern-
44 or. This report shall account for all money received

1 and expended, statistics on members who resided in the
2 home during the year, recommendations to the Governor
3 and Legislature and such other matters as the board
4 deems pertinent. The administrator, subject to
5 approval of the board, shall compile a biennial budget
6 on the forms and at the time required of other state
7 agencies.

8 L. No trustees may receive compensation for any ser-
9 vices rendered to the home, but necessary expenses
10 incurred by a trustee in the performance of his offi-
11 cial duties shall be paid by the State.

12 §4. Bureau of Civil Emergency Preparedness

13 1. Purpose. The Bureau of Civil Emergency
14 Preparedness, as heretofore established and hereinafter
15 referred to as the "bureau," has the principal responsibil-
16 ity for state coordination of effective responses, at the
17 appropriate levels of government, to emergencies resulting
18 from disasters and catastrophes, and in the discharge of
19 these responsibilities shall seek to:

20 A. Reduce vulnerability of people and communities of
21 this State to damage, injury and loss of life and prop-
22 erty resulting from natural or man-made catastrophes,
23 riots or hostile military or paramilitary action;

24 B. Provide for coordination of activities relating to
25 disaster prevention, preparedness, response and recov-
26 ery by agencies and officers of this State, and similar
27 state-local, interstate, federal-state and foreign ac-
28 tivities in which the State and its political subdivi-
29 sions may participate;

30 C. Prepare for prompt and efficient rescue, care and
31 treatment of persons victimized or threatened by disas-
32 ter;

33 D. Establish a structure conducive to the rapid and
34 orderly start of restoration and rehabilitation of per-
35 sons and property affected by disasters;

36 E. Clarify the roles of the state agencies and local
37 governments in prevention of, preparation for, response
38 to and recovery from emergencies and disasters, con-
39 sistent with the provisions of this section;

40 F. Assure cooperation in disaster prevention,
41 preparedness, response and recovery in accordance with
42 the authority set forth in this section;

1 G. Provide a management system embodying all aspects
2 of predisaster preparedness and postdisaster response;

3 H. Assure prevention of disaster caused or further
4 aggravated by inadequate planning for and regulation of
5 public and private facilities and land use; and

6 I. Supplement, without in any way limiting, authority
7 conferred by previous statutes of this State and
8 increase the capability of the state and local agencies
9 having responsibilities for civil emergency
10 preparedness to perform civil emergency preparedness
11 services.

12 2. Definitions. As used in this section, unless the
13 context indicates otherwise, the following terms have the
14 following meanings.

15 A. "Civil emergency preparedness" means the prepara-
16 tion for and the carrying out of all emergency func-
17 tions to minimize and repair injury and damage result-
18 ing from disasters caused by enemy attacks, sabotage,
19 riots or other hostile actions, or by fire, flood,
20 earthquake or other natural or man-made causes. These
21 functions include, without limitation, fire fighting
22 services, police services, medical and health services,
23 rescue, engineering, air raid warning services, commu-
24 nications, radiological, chemical and other special
25 weapons defense, evacuation of persons from stricken
26 areas, emergency welfare services, economic stabiliza-
27 tion, allocation of critical materials in short supply,
28 emergency transportation, existing or properly assigned
29 functions of plant protection and other functions
30 related to civilian protection, together with all other
31 activities necessary or incidental to the preparation
32 for the carrying out of these functions; sometimes ab-
33 breviated "CEP."

34 B. "Disaster" means occurrence or imminent threat of
35 widespread or severe damage, injury or loss of life or
36 property resulting from any natural or man-made cause
37 or catastrophe, including, but not limited to, fire,
38 flood, earthquake, wind, storm, wave action, oil spill
39 or other water contamination requiring emergency action
40 to avert danger or damage, epidemic, air contamination,
41 blight, drought, critical material shortage, infesta-
42 tion, explosion, riot or hostile military or
43 paramilitary action.

1 C. "Local organization for civil emergency
2 preparedness" means an organization created in accor-
3 dance with this section by state, county or local
4 authority to perform local civil emergency preparedness
5 functions. The local agencies contemplated by this
6 subsection are as follows:

7 (1) Municipal or civil emergency preparedness
8 agency, an agency established for the purpose of
9 performing civil emergency preparedness functions
10 at the most localized level, within and for a
11 political subdivision;

12 (2) Interjurisdictional civil emergency
13 preparedness agency would perform civil emergency
14 preparedness functions for and among several
15 political subdivisions; and

16 (3) The county or regional civil emergency
17 preparedness agency will be an agency established
18 providing functions, including, but not limited
19 to, coordinating the functions of the political
20 subdivisions, municipal or other local agencies
21 and any interjurisdictional agencies within the
22 county or region.

23 D. "Major disaster" means any disaster which, upon the
24 request of the Governor and in the determination of the
25 President of the United States, causes damage of suffi-
26 cient severity and magnitude to warrant major disaster
27 assistance to United States Public Law 93-288, the
28 Disaster Relief Act of 1974, and any successor thereto,
29 above and beyond other emergency services by the Fed-
30 eral Government, to supplement the efforts and avail-
31 able resources of states, local governments and disas-
32 ter relief organizations in alleviating the damage,
33 loss, hardship or suffering caused thereby.

34 E. "Political subdivision" includes cities, towns,
35 villages, townships, districts, authorities and other
36 public corporations and entities, whether organized and
37 existing under charter or general law.

38 3. Role of military forces in civil emergency
39 preparedness activities. Insofar as civil emergency
40 preparedness involves emergency functions for responding to
41 disasters, involving military attack, insurrection or simi-
42 lar war-like activities, the state military forces shall
43 have exclusive jurisdiction pursuant to the order of the
44 Governor, as Commander in Chief, and the President of the

1 United States, if and to the extent state military forces
2 are federalized by the President in accordance with federal
3 law. Insofar as civil emergency preparedness involves emer-
4 gency functions resulting from non-war-like disasters, the
5 state military forces, subject and pursuant to section 2,
6 shall perform only such duties in aid of civil authority and
7 in coordination with the bureau as the Governor directs. In
8 either event, the state military forces shall coordinate its
9 plans with the bureau recognizing that primary responsibil-
10 ity for civil emergency preparedness resides with the bureau
11 and the other agencies for civil emergency preparedness de-
12 scribed in this section.

13 4. Federal coordination. The bureau and the local
14 organizations for civil emergency preparedness shall carry
15 out functions in a manner consistent with the policy of the
16 State to assure that all civil emergency preparedness func-
17 tions are coordinated to the maximum extent:

18 A. With comparable functions of the Federal Govern-
19 ment, including its various departments;

20 B. With the departments and agencies of other states
21 and localities;

22 C. With private agencies of every type; and

23 D. With all municipal, interjurisdictional, county and
24 regional civil emergency preparedness agencies within
25 the State.

26 5. Structure of civil emergency preparedness activi-
27 ties. The structure of civil emergency preparedness activi-
28 ties shall be as follows.

29 A. As directed by the Governor, civil emergency
30 preparedness activities shall be carried out at the
31 most direct and localized level consistent with:

32 (1) The scope and area affected by a particular
33 emergency;

34 (2) The resources available; and

35 (3) The need to augment efforts in an orderly
36 fashion as the scope and resources change.

37 B. Subject to paragraph A, responsibility for carrying
38 out effective response to the occurrence of a disaster
39 lies first with the local organization for civil emer-

1 gency preparedness in the jurisdiction where the disaster
2 has occurred, 2nd with the county-regional agency
3 and finally with the State if the more localized agencies
4 are not sufficient to carry out or continue the
5 necessary and effective response.

6 6. Director. The bureau shall be under the supervision
7 of the director who is responsible to the commissioner
8 for carrying out the program of civil emergency
9 preparedness. Subject to the Personnel Law, the director
10 may hire such technical, clerical and other personnel as
11 needed to carry out this section. Expenditures made by the
12 director to carry out this section are subject to the
13 approval of the commissioner. Reference in this section to
14 the "director" means the Director of Civil Emergency
15 Preparedness.

16 7. Duties of director. The duties of the director
17 include:

18 A. Coordinating the activities of all organizations
19 for civil emergency preparedness within the State;

20 B. Maintaining liaison with and cooperating with civil
21 emergency preparedness and public safety agencies and
22 organizations of other states, the Federal Government
23 and foreign governments, and the political subdivisions
24 thereof; and

25 C. Such additional authority, duties and responsibilities
26 as may be prescribed by the commissioner.

27 8. Property. The director, for purposes of civil
28 emergency preparedness and subject to the approval of the
29 Governor, may convey equipment, supplies, materials or funds
30 by way of sale, lease or grant to any political subdivision
31 of the State. Such a conveyance is subject to the terms of
32 the offer and the rules and regulations, if any, imposed by
33 the State. These rules and regulations are not rules within
34 the meaning of the Maine Administrative Procedure Act, Title
35 5, section 8002, subsection 9.

36 9. Rules. In accordance with the Maine Administrative
37 Procedure Act, Title 5, chapter 375, subchapter II, the
38 director may make, amend or rescind reasonable rules to
39 carry out this section.

40 10. Political activity prohibited. No agency estab-
41 lished under the authority of this section may participate
42 in any form of political activity, nor may it be employed
43 directly or indirectly for political purposes.

1 11. Local agencies for civil emergency
2 preparedness. Local agencies for civil emergency
3 preparedness shall be established as follows.

4 A. Each municipality of the State shall be served by a
5 local agency responsible for disaster preparedness and
6 coordination of disaster response. The commissioner or
7 his designee, after public hearing, shall determine
8 those municipalities which shall establish civil emer-
9 gency preparedness agencies of their own, municipal
10 agencies, and those which shall participate in and pro-
11 vide support for interjurisdictional civil emergency
12 preparedness agencies, interjurisdictional agencies.
13 These determinations shall be based on a finding that
14 efficient and effective disaster prevention,
15 preparedness, response and recovery will be promoted
16 thereby. The following functions, among others, shall
17 be considered:

18 (1) Size and density of the affected population;

19 (2) Financial ability of the separate municipali-
20 ties to maintain independent disaster assistance
21 agencies; and

22 (3) Vulnerability of the area to disaster, as
23 evidenced by past disasters, topographical fea-
24 tures, drainage characteristics, disaster poten-
25 tial and existence of disaster prone facilities
26 and operations.

27 B. In the case of a local interjurisdictional agency,
28 each constituent municipality shall contribute to the
29 cost of the agency upon such fair and equitable basis
30 as may be determined by the chief executives of the
31 constituent municipalities. If in any case the chief
32 executives cannot agree upon the proper division of
33 costs, the matter shall be referred to the commissioner
34 for arbitration and his decision shall be binding.

35 C. The commissioner shall designate such counties or
36 regions as he deems necessary for the purpose of estab-
37 lishing county or regional civil emergency preparedness
38 agencies. Each designated county or regional agency
39 shall be responsible for coordination of the activities
40 of municipal and interjurisdictional civil emergency
41 preparedness agencies within the region or county and
42 shall be concurrently responsible for civil emergency
43 preparedness in the unorganized territories within its
44 jurisdiction. A county or regional civil emergency

1 preparedness agency shall receive support from the
2 municipalities within its jurisdiction.

3 The bureau shall publish and maintain a current list of
4 municipal, interjurisdictional, county and regional
5 civil emergency preparedness agencies established pur-
6 suant to this subsection.

7 • 12. Local directors and liaison officers. Local
8 directors and liaison officers of civil emergency
9 preparedness agencies shall be selected as follows.

10 A. With the advice and consent of the bureau:

11 (1) The executive body of a municipality shall
12 appoint the director of a municipal civil emer-
13 gency preparedness agency;

14 (2) The director of an interjurisdictional agency
15 shall be appointed by joint action of the execu-
16 tive bodies of the constituent municipalities;

17 (3) The county commissioners shall appoint the
18 director of a county civil emergency preparedness
19 agency; and

20 (4) The director of a regional civil emergency
21 preparedness agency shall be appointed by the
22 joint action of the county commissioners in whose
23 counties the region lies.

24 B. Any director appointed pursuant to this subsection
25 shall serve at the pleasure of the appointing author-
26 ity.

27 C. A director of any civil emergency preparedness
28 agency shall not be simultaneously an executive officer
29 or member of the executive body of any political sub-
30 division of the State.

31 D. In the event that the executive bodies of an inter-
32 jurisdictional agency or the county commissioners of
33 the constituent county for a regional agency cannot
34 select a director or agree on matters which under this
35 section require joint agreement, the dispute shall be
36 submitted to the commissioner for arbitration and the
37 commissioner's decision shall govern.

38 13. Disaster emergency plans. Each municipal or
39 interjurisdictional agency and each county or regional

1 agency, in consultation with the bureau, shall prepare and
2 keep current a disaster emergency plan for the area subject
3 to its jurisdiction.

4 A. The plan shall include without limitation:

5 (1) Identification of disasters to which the
6 jurisdiction is or may be vulnerable, specifically
7 indicating the areas most likely to be affected;

8 (2) Identification of the procedures and opera-
9 tions which will be necessary to prevent or mini-
10 mize injury and damage in the event such disasters
11 occur;

12 (3) Identification of the personnel, equipment
13 and supplies required to implement such procedures
14 and operations and the means by which their timely
15 availability will be assured;

16 (4) Recommendations to appropriate public and
17 private agencies of all preventive measures found
18 reasonable after considering risk and cost; and

19 (5) Such other elements as the director may by
20 regulation require.

21 B. Each municipal or interjurisdictional agency and
22 each county or regional agency, as part of the develop-
23 ment of a disaster emergency plan for the area subject
24 to its jurisdiction, shall consult with hospitals
25 within its jurisdiction to insure that the disaster
26 plans developed by the agencies and the hospitals are
27 compatible.

28 C. If the Governor finds that a vulnerable area lies
29 only partly within this State and includes territory in
30 another state or states or territory in a foreign
31 jurisdiction and that it would be desirable to estab-
32 lish an interstate or international relationship, he
33 mutual aid or an area organization for disaster, he
34 shall take steps to that end as desirable. If this ac-
35 tion is taken with a jurisdiction that has enacted the
36 Interstate Civil Defense and Disaster Compact, any
37 resulting agreement or agreements may be considered
38 supplemental agreements pursuant to subsection 37,
39 paragraph F. If the other jurisdiction or jurisdic-
40 tions with which the Governor proposes to cooperate
41 have not enacted that compact, he may negotiate special
42 agreements with the jurisdiction or jurisdictions. Any

1 agreement, if sufficient authority for the making
2 thereof does not otherwise exist, shall become effec-
3 tive only after approval by the Legislature.

4 D. Civil emergency preparedness agencies organized
5 pursuant to this section may accept the services of the
6 Department of Personnel and adopt regulations thereof
7 for the purpose of qualifying for federal administra-
8 tive funds. The Department of Personnel may enter into
9 agreements with such civil emergency preparedness agen-
10 cies for the purpose of furnishing merit system cover-
11 age for civil emergency preparedness employees or
12 employees of other agencies and departments assigned
13 full time to civil emergency preparedness duties. The
14 Department of Personnel may charge for such services
15 rendered, the fee to be consistent with the cost of
16 coverage for each state employee, multiplied by the
17 number of local, interjurisdictional, county or region-
18 al employees covered. Fees thus received shall be
19 credited to the General Fund.

20 14. Mutual aid arrangements. The director of each
21 local organization for civil emergency preparedness shall,
22 in collaboration with other public and private agencies
23 within this State, develop or cause to be developed mutual
24 aid arrangements for reciprocal civil emergency preparedness
25 aid and assistance in case of disaster too great to be dealt
26 with unassisted. These arrangements shall be consistent with
27 the state civil emergency preparedness program and, in time
28 of emergency, it shall be the duty of each local organiza-
29 tion for civil emergency preparedness to render assistance
30 in accordance with such mutual aid arrangements, and for
31 this purpose political subdivisions may enter into such
32 mutual aid arrangements.

33 Each political subdivision, when geographical locations make
34 mutual aid arrangements desirable, may, subject to the
35 approval of the director, enter into mutual arrangements for
36 civil emergency preparedness aid and assistance in case of
37 disaster or catastrophe too great to be dealt with
38 unassisted.

39 15. Governor's powers. The Governor:

40 A. Either directly or through the commissioner shall
41 have a general direction and control of the bureau and
42 shall be responsible for the carrying out of this
43 section and, in the event of a civil emergency beyond
44 local control, the Governor may assume direct opera-
45 tional control over all or part of the civil emergency
46 functions within the State;

1 B. In performing his duties under this section,
2 directly or through the commissioner, may cooperate
3 with all departments and agencies of the Federal Gov-
4 ernment, with the offices and agencies of other states
5 and foreign countries and with private agencies in all
6 matters pertaining to the civil emergency preparedness
7 of the State and of the Nation; and

8 C. In performing his duties under this section may:

9 (1) Make, amend and rescind the necessary orders
10 and rules to carry out this section within the
11 limits of the authority conferred upon him and not
12 inconsistent with the rules and directives of the
13 President of the United States or of any federal
14 department or agency having specifically author-
15 ized civil emergency preparedness functions;

16 (2) Prepare a comprehensive plan and program for
17 the civil emergency preparedness of this State,
18 such plan and program to be integrated into and
19 coordinated with the civil emergency preparedness
20 plans of federal agencies and with the plans of
21 other states and foreign countries, to the fullest
22 possible extent, and coordinate the preparation of
23 plans and programs for civil emergency
24 preparedness by the political subdivisions of this
25 State, these plans to be integrated into and coor-
26 ordinated with the civil emergency preparedness plan
27 and program of this State, to the fullest possible
28 extent;

29 (3) In accordance with such plan and program for
30 the civil emergency preparedness of this State and
31 consistent with the civil emergency preparedness
32 plans, programs and directives of the Federal Gov-
33 ernment, procure supplies and equipment, institute
34 training programs and public information programs
35 and take all other preparatory steps, including
36 the partial or full mobilization of civil emer-
37 gency preparedness organizations in advance of ac-
38 tual disaster, to insure the furnishing of ade-
39 quately trained and equipped forces of civil emer-
40 gency preparedness personnel in time of need;

41 (4) Conduct such studies and surveys and take
42 such inventories of the industries, resources and
43 facilities of this State as may be necessary to
44 ascertain the capabilities of the State for civil
45 emergency preparedness, and plan for the most

1 efficient emergency use thereof, including emer-
2 gency economic controls to insure adequate produc-
3 tion and equitable distribution of essential com-
4 modities; and

5 (5) Delegate any authority vested in him under
6 this subsection and provide for the subdelegation
7 of any such authority.

8 16. State emergency proclamation. State emergencies
9 may be declared as follows.

10 A. In the event of a civil emergency within the State,
11 the Governor may, by proclamation, declare the fact of
12 such emergency in any or all areas of the State. If
13 the Governor is temporarily absent from the State or is
14 otherwise unavailable, the next person in the State who
15 would act as Governor if the office of Governor were
16 vacant may, by proclamation, declare the fact that a
17 civil emergency exists in any or all areas of the
18 State. A copy of the proclamation shall be filed with
19 the Secretary of State.

20 B. Subject at all times to the further direction and
21 order of the Governor, an executive proclamation of
22 emergency shall activate the emergency preparedness
23 plans applicable to the affected areas and shall be the
24 authority for the deployment and use of any forces or
25 resources to which the plan or plans apply.

26 C. After the filing of an emergency proclamation and
27 in addition to any other powers conferred by law, the
28 Governor may:

29 (1) Suspend the enforcement of any statute pre-
30 scribing the procedures for conduct of state busi-
31 ness, or the orders or rules of any state agency,
32 if strict compliance with the provisions of any
33 statute, order or rule would in any way prevent,
34 hinder or delay necessary action in coping with
35 the emergency;

36 (2) Utilize all available resources of the State
37 Government and of each political subdivision of
38 the State as reasonably necessary to cope with the
39 disaster emergency;

40 (3) Transfer the direction, personnel or func-
41 tions of state departments and agencies, or units
42 thereof, for the purpose of performing or facili-
43 tating emergency services;

- 1 (4) Authorize the obtaining and acquisition of
2 property, supplies and materials pursuant to sub-
3 section 19;
- 4 (5) Enlist the aid of any person to assist in the
5 effort to control, put out or end the emergency or
6 aid in the caring for the safety of persons;
- 7 (6) Direct and compel the evacuation of all or
8 part of the population from any stricken or
9 threatened area within the State, if he deems this
10 action necessary for the preservation of life or
11 other disaster mitigation, response or recovery;
- 12 (7) Prescribe routes, modes of transportation and
13 destinations in connection with evacuation;
- 14 (8) Control ingress and egress to and from a
15 disaster area, the movement of persons within the
16 area and the occupancy of premises therein;
- 17 (9) Suspend or limit the sale, dispensing or
18 transportation of alcoholic beverages, firearms,
19 explosives and combustibles; and
- 20 (10) Make provision for the availability and use
21 of temporary emergency housing.

22 D. The state of emergency shall continue until the
23 Governor finds that the threat or danger has passed or
24 the disaster has been dealt with to the extent that a
25 civil emergency condition no longer exists and termi-
26 nates the state of emergency by executive proclamation,
27 but no state of emergency may continue for longer than
28 30 days unless renewed by the Governor. The Legis-
29 lature, by concurrent resolution, may terminate a state
30 of emergency at any time. Thereupon, the Governor
31 shall issue an executive proclamation ending the state
32 of emergency.

33 17. Energy emergency proclamation. An energy emer-
34 gency may be proclaimed as follows.

35 A. Whenever an actual or impending acute shortage in
36 usable energy resources threatens the health, safety or
37 welfare of the citizens of the State, the Governor
38 shall, by proclamation, declare that an energy emer-
39 gency exists in any or all sections of the State in the
40 manner set forth in subsection 1.

1 B. Upon the issuance of an energy emergency procla-
2 mation and after consulting with the Director of the
3 Office of Energy Resources, the Governor may exercise
4 all the powers granted in this section, except as may
5 be specifically limited by this subsection, and these
6 powers include without limitation the authority to:

7 (1) Establish and implement programs, controls,
8 standards, priorities and quotas for the alloca-
9 tion, conservation and consumption of energy
10 resources;

11 (2) Regulate the hours and days during which non-
12 residential buildings may be open and the tempera-
13 tures at which they may be maintained;

14 (3) Regulate the use of gasoline and
15 diesel-powered land vehicles, watercraft and air-
16 craft;

17 (4) After consulting, when appropriate, with the
18 other New England governors and upon the recom-
19 mendations of the Maine Public Utilities Commis-
20 sion, regulate the generation, distribution and
21 consumption of electricity;

22 (5) Establish temporary state and local boards
23 and agencies;

24 (6) Establish and implement programs and agree-
25 ments for the purposes of coordinating the emer-
26 gency energy response of the State with those of
27 the Federal Government and of other states and
28 localities;

29 (7) Temporarily suspend, in a manner not incon-
30 sistent with federal regulations, truck weight and
31 size regulations; and

32 (8) Regulate the storage, distribution and con-
33 sumption of home, commercial, institutional and
34 industrial heating oil and other petroleum prod-
35 ucts.

36 C. In dealing with a declared energy emergency, the
37 following powers granted by this section may not be
38 invoked:

39 (1) The eminent domain powers granted in subsec-
40 tion 19; and

1 (2) The enforcement powers granted in subsections
2 26 and 27, unless the Governor specifically
3 invokes these powers by an order issued pursuant
4 to an energy emergency proclamation and approved
5 by a majority of the membership of the Legislative
6 Council. Such order shall specify those emergency
7 orders or rules which shall be enforceable pur-
8 suant to this paragraph and shall further specify
9 the enforcement activities which civil defense
10 organizations are to pursue. No enforcement ac-
11 tion may be taken pursuant to this paragraph with-
12 out publication of the order authorizing such ac-
13 tion in a manner reasonably calculated to give
14 persons affected thereby adequate notice of the
15 order or rule to be enforced and the sanctions to
16 be applied.

17 D. Environmental regulations.

18 (1) Except as provided in subparagraph (2), noth-
19 ing contained in this subsection may be construed
20 to authorize the Governor to suspend or to modify
21 orders, regulations, standards or classifications
22 issued or enforced by the Department of Environ-
23 mental Protection or the Maine Land Use Regulation
24 Commission.

25 (2) At any time an energy emergency proclamation
26 is in effect, the Governor may call the Board of
27 Environmental Protection into extraordinary
28 session to consider temporary waivers or suspen-
29 sions of rules and standards related to air and
30 water quality necessary to relieve then existing
31 energy shortages. Thereupon, the board may, not-
32 withstanding any other provision of law, approve
33 such suspensions or waivers as it determines are
34 necessary to relieve or avoid an energy shortage
35 and will not result in environmental degradation
36 of a permanent or enduring nature. In no event
37 may any suspension or modification be granted
38 which will result in a circumvention of Title 38,
39 sections 481 to 488, section 491 and section 557.
40 No such waiver or suspension may remain in effect
41 longer than 60 days or after the date on which the
42 board renders a further order issued pursuant to
43 the regular procedures specified in Title 38,
44 whichever first occurs.

45 E. The Superior Court of the county in which there
46 occurs a failure to obey an order or rule promulgated

1 in accordance with this subsection shall have jurisdic-
2 tion to issue a restraining order or injunction to
3 enforce the order or rule. The proceeding shall be
4 held in accordance with the Maine Rules of Civil Proce-
5 cedure, Rule 65.

6 F. In the event that any order or rule issued by the
7 Governor, pursuant to the powers granted in paragraph
8 B, are to be in effect for longer than 90 days, the
9 Governor shall, before the 80th day following the issu-
10 ance of the order or rule, convene the Legislature.

11 G. Whenever the Governor is satisfied that an emer-
12 gency no longer exists, he shall terminate the procla-
13 mation by another proclamation affecting the sections
14 of the State covered by the original proclamation, or
15 any part thereof. The proclamation shall be published
16 in such newspapers of the State and posted in such
17 places as the Governor, or the person acting in that
18 capacity, deems appropriate.

19 18. Disaster relief. Disaster relief may be provided
20 as follows.

21 A. Major disaster.

22 (1) Whenever the President, at the request of the
23 Governor, has declared a major disaster to exist
24 in this State, the Governor may:

25 (a) Upon his determination that financial
26 assistance is essential to meet
27 disaster-related necessary expenses or
28 serious needs of individuals or families
29 adversely affected by a major disaster that
30 cannot be otherwise adequately met from other
31 means of assistance, accept a grant by the
32 Federal Government to fund such financial
33 assistance, subject to such terms and condi-
34 tions as may be imposed upon the grant; and

35 (b) Enter into an agreement with the Federal
36 Government, or any officer or agency thereof,
37 pledging the State to participate in the
38 funding of the financial assistance author-
39 ized in division (a) in an amount not to
40 exceed 25% thereof and, if state funds are
41 not otherwise available to the Governor, ac-
42 cept an advance of the state's share from the
43 Federal Government to be repaid when the
44 State is able to do so.

1 (2) Notwithstanding any other provision of law or
2 regulation, the Governor may make financial grants
3 to meet disaster-related necessary expenses or
4 serious needs of individuals or families adversely
5 affected by a major disaster which cannot other-
6 wise adequately be met from other means or assis-
7 tance. These grants shall not exceed \$5,000 in
8 the aggregate to an individual or family in any
9 single major disaster declared by the President.

10 (3) The Governor shall make such regulations as
11 are necessary for the carrying out of this subsec-
12 tion, including, but not limited to, standards of
13 eligibility for persons applying for benefits;
14 procedures for applying for and administration of
15 relief; methods of investigation, filing and
16 approving applications and formation of local or
17 statewide boards to pass upon applications and
18 procedures for appeals.

19 (4) Any person who fraudulently or willfully
20 makes a misstatement of fact in connection with an
21 application for financial assistance under this
22 subsection is guilty of violation of Title 17-A,
23 section 353.

24 B. Temporary housing.

25 (1) Whenever the Governor has proclaimed a disas-
26 ter emergency under the laws of this State or the
27 President has declared an emergency or a major
28 disaster to exist in this State, the Governor may:

29 (a) Enter into purchase, lease or other
30 arrangements with any agency of the United
31 States for temporary housing units to be
32 occupied by disaster victims and these units
33 shall be available to any political subdivi-
34 sion of the State;

35 (b) Assist any political subdivision of this
36 State, which is the locality for temporary
37 housing for disaster victims, to acquire
38 sites necessary to such temporary housing and
39 to do all things required to prepare such
40 site to receive and utilize temporary housing
41 units by advancing or lending funds available
42 to the Governor from any appropriation made
43 by the Legislature or from any other source,
44 and "passing through" funds made available by

1 any agency, public or private; or becoming a
2 copartner with the political subdivision for
3 the execution and performance of any tempo-
4 rary housing project for disaster victims and
5 for such purposes pledge the credit of the
6 State on such terms as he deems appropriate,
7 having due regard for current debt trans-
8 actions of the State; and

9 (c) Under such regulations as he prescribes,
10 temporarily suspend or modify, for not
11 exceeding 90 days, any public health, safety,
12 zoning, transportation within or across the
13 State or other requirement of law or regula-
14 tion within this State, when by proclamation
15 he deems such suspension or modification
16 essential to provide temporary housing for
17 disaster victims.

18 (2) Any political subdivision of this State is
19 expressly authorized to acquire, temporarily or
20 permanently, by purchase, lease or otherwise,
21 sites required for installation of temporary hous-
22 ing units for disaster victims and to enter into
23 whatever arrangements, including purchase of
24 temporary housing units and payment of transporta-
25 tion charges, which are necessary to prepare to
26 equip such sites to utilize the housing units.

27 (3) The Governor may make rules necessary to
28 carry out the purposes of this subsection.

29 (4) Nothing contained in this subsection may be
30 construed to limit the Governor's authority to
31 apply for, administer and expend any grants, gifts
32 or payments in aid of disaster prevention,
33 preparedness, response or recovery.

34 (5) "Major disaster," "emergency" and "temporary
35 housing," as used in this subsection, have the
36 same meaning as the terms are defined or used in
37 the Disaster Relief Act of 1974, United States
38 Public Law 93-288, 88 Stat. 143, and any successor
39 thereto.

40 C. Whenever, at the request of the Governor, the
41 President has declared a major disaster to exist in
42 this State, the Governor may:

1 (1) Upon his determination that a local govern-
2 ment of the State will suffer a substantial loss
3 of tax and other revenues from a major disaster
4 and has demonstrated a need for financial assis-
5 tance to perform its governmental functions, apply
6 to the Federal Government, on behalf of the local
7 government, for a loan; and receive and disburse
8 the proceeds of any approved loan to any applicant
9 local government which he determines eligible to
10 receive such loans;

11 (2) Determine the amount needed by any applicant
12 local government to restore or resume its govern-
13 mental functions and to certify the amount to the
14 Federal Government, provided that no application
15 amount may exceed 25% of the annual operating bud-
16 get of the applicant for the fiscal year in which
17 the major disaster occurs; and

18 (3) Recommend to the Federal Government, based
19 upon his review, the cancellation of all or any
20 part of repayment when, after 3 full fiscal years
21 following the major disaster, the revenues of the
22 local government are insufficient to meet its
23 operating expenses, including additional
24 disaster-related expenses.

25 D. Debris removal in major disasters.

26 (1) Whenever the Governor has declared a disaster
27 emergency exists under the laws of this State or
28 the President, at the request of the Governor, has
29 declared a major disaster or emergency exists in
30 this State, the Governor may:

31 (a) Notwithstanding any other provision of
32 law, through the use of state departments or
33 agencies or the use of any of the state's
34 instrumentalities, clear or remove, from pub-
35 licly-owned or privately-owned land or water,
36 debris and wreckage which may threaten public
37 health or safety, or public or private prop-
38 erty; and

39 (b) Accept funds from the Federal Government
40 and utilize these funds to make grants to any
41 local government or other entity for the pur-
42 pose of removing debris or wreckage from pub-
43 licly-owned or privately-owned land or water.

1 (2) Conditions of execution of removal or clear-
2 ance.

3 (a) Authority under this subsection shall
4 not be exercised unless the affected local
5 government, corporation, organization or
6 individual first presents an unconditional
7 authorization for removal of the debris or
8 wreckage from private property, and agrees to
9 indemnify the State Government against any
10 claim arising from such removal.

11 (b) Whenever the Governor provides for
12 clearance of debris or wreckage pursuant to
13 subparagraph (1), division (a) or (b),
14 employees of the designated state agencies or
15 individuals appointed by the State may enter
16 upon private land or waters and perform any
17 tasks necessary to the removal or clearance
18 operation.

19 (c) Except in cases of willful misconduct,
20 gross negligence or bad faith, any state
21 employee or agent complying with orders of
22 the Governor and performing duties pursuant
23 thereto under this subsection shall not be
24 liable for death of or injury to persons or
25 damage to property.

26 (3) The Governor may make rules to carry out this
27 subsection.

28 19. Eminent domain and compensation. When the Gover-
29 nor has issued a proclamation as provided for in subsection
30 16 and when thereafter, in his judgment for the better pro-
31 tection and welfare of this State or its inhabitants, the
32 situation so requires, as a matter of public necessity or
33 convenience, he may take possession of any property, real or
34 personal, located within this State for public uses in fur-
35 therance of this section.

36 If real estate is seized under this subsection, a declara-
37 tion of the property seized, containing a full and complete
38 description, shall be filed with the register of deeds in
39 and for the county in which the seizure is located and a
40 copy of the declaration furnished to the owner.

41 If personal property is seized under this subsection, there
42 shall be entered, upon a docket containing a permanent
43 record, a description of the personal property and its con-

1 dition when seized, and there shall be furnished to the
2 owner of the seized property a true copy of the docket
3 recording.

4 The Governor shall award reasonable compensation to the
5 owners of the property, which he may take under this subsec-
6 tion, and for its use and for any injury thereto or destruc-
7 tion thereof caused by such use.

8 Any owner of property of which possession has been taken
9 under this subsection to whom no award has been made, or who
10 is dissatisfied with the amount awarded him as compensation,
11 may file a claim with the State Claims Board to have the
12 amount of damages, to which he is entitled, determined. The
13 State Claims Board shall act on the claim in accordance with
14 the procedure set forth in Title 23, section 156. Any party
15 or parties aggrieved by an award of the State Claims Board
16 may file an appeal to the Superior Court pursuant to Title
17 23, section 157.

18 The plaintiff may bring action within 6 years after the date
19 possession of the property was taken under this subsection,
20 except that, if the owner of the property is in the military
21 service of the United States at any time during which he
22 should otherwise have brought his action, he may bring ac-
23 tion within 6 years after his discharge from the military
24 service. The plaintiff and the State shall severally have
25 the right to have these damages assessed by a jury.

26 In the event, by reason of the death of the owner of prop-
27 erty seized under this subsection, he is unable to bring or
28 to continue the action provided for, the action may be
29 brought or continued by his executor or administrator.

30 20. Immunity. Neither the State nor any political
31 subdivision thereof, nor other agencies, including the
32 voluntary and uncompensated grantor of a permit for the use
33 of his premises as a civil emergency preparedness shelter,
34 engaged in any civil emergency preparedness activities,
35 while complying with or attempting to comply with this
36 section or any other rule promulgated pursuant to this
37 section, may be liable for the death of, or any injury to,
38 persons or damage to property as a result of that activity.
39 This subsection shall not affect the right of any person to
40 receive benefits to which he would otherwise be entitled
41 under this section, or under the Workers' Compensation Act
42 or under any pension law, nor the right of any such person
43 to receive any benefits or compensation under any Act of
44 Congress.

1 21. Compensation for injuries received in line of
2 duty. All members of the civil emergency preparedness
3 forces are deemed to be employees of the State when engaged
4 in training for or on civil emergency preparedness duty, and
5 have all the rights given to state employees under the Work-
6 ers' Compensation Act. All claims shall be filed and prose-
7 cuted and determined in accordance with the procedure set
8 forth in the Workers' Compensation Act.

9 In computing the average weekly wage of any claimant under
10 this subsection, the average weekly wage shall be taken to
11 be the earning capacity of the injured individual in the
12 occupation in which he is regularly engaged.

13 Any sums payable under any Act of Congress, or other federal
14 program as compensation for death, disability or injury of
15 civil emergency preparedness workers, shall be considered
16 with the determination and settlement of any claim brought
17 under this subsection. When payments received from the Fed-
18 eral Government are less than an injured individual would be
19 entitled to receive under this subsection, then he shall be
20 entitled to receive all the benefits to which he would have
21 been entitled under this subsection, less the benefits actu-
22 ally received from the Federal Government.

23 22. Appropriations and acceptance of aid. Each polit-
24 ical subdivision may make appropriations in the manner pro-
25 vided by law for making appropriations for the ordinary
26 expenses of the political subdivision for the payment of
27 expenses to its county or local agency for civil emergency
28 preparedness.

29 Whenever the Federal Government, or any agency or officer
30 thereof, or any person, firm or corporation offers to the
31 State, or to any political subdivision thereof, services,
32 equipment, supplies, materials or funds by way of gifts,
33 grants or loans, for purposes of civil emergency
34 preparedness, the State, acting through the Governor, or the
35 political subdivision, acting through its executive officer
36 or governing body, may accept the offer, and upon the accep-
37 tance, the Governor, executive officer or governing body, as
38 the case may be, may authorize any officer of the State or
39 of the political subdivision to receive the services, equip-
40 ment, supplies, materials or funds on behalf of the State,
41 or the political subdivision, and subject to the terms of
42 the offer and the rules and regulations, if any, of the
43 agency making the offer.

44 23. Appropriations and authorization of expenditures.
45 The Governor may, whenever an emergency has been declared

1 as provided in subsection 16, 17 or 18, transfer to the
2 Bureau of Civil Emergency Preparedness, as heretofore estab-
3 lished, any state money in the General Fund, including unex-
4 pended appropriation balances, allotted or otherwise, of any
5 state department or agency. The Governor may expend the
6 money in the fund for the purpose of carrying out this
7 section.

8 24. Aid in emergency; penalty. Upon the issuance of a
9 proclamation as provided in subsection 16, 17 or 18, the
10 Governor may utilize any available property and enlist the
11 aid of any person to assist in the effort to control, put out
12 or end the disaster, catastrophe or emergency or aid in the
13 caring for the safety of persons. Any person who refuses to
14 aid in an emergency without reasonable cause is guilty of a
15 Class E crime. The State shall be liable for any damage to
16 any property utilized under this subsection.

17 25. Right-of-way; penalty; jurisdiction. Persons and
18 equipment required to respond to emergency calls under this
19 section have the right-of-way over all public ways and roads
20 and the Governor is granted the right to close or restrict
21 traffic on all roads in any area.

22 Whoever fails to give the right-of-way to persons, vehicles
23 and equipment required to respond to emergency calls under
24 this section, or whoever enters upon roads which are closed
25 to traffic under this section, is guilty of a Class E crime.

26 26. Enforcement. It is the duty of every organization
27 for civil emergency preparedness established pursuant to
28 this section, and of the officers thereof, to execute and
29 enforce such orders and rules as may be made by the Governor
30 under authority of this section. Each organization shall
31 have available for inspection at its office all orders and
32 rules made by the Governor, or under his authority.

33 Every officer of a political subdivision of this State who,
34 having administrative responsibilities under this section,
35 intentionally violates any of the provisions of this subsection
36 commits a civil violation for which a forfeiture of
37 \$100 may be adjudged.

38 27. Duties of law enforcement personnel. Duly
39 appointed law enforcement officers of local, state and sher-
40 iffs' organizations may enforce any of the provisions of
41 this section, or any rules promulgated under this section,
42 in times of an emergency or during authorized alerts,
43 including partial or full mobilization necessary to carry
44 out subsections 16, 17 and 18. It is unlawful for any indi-

1 vidual to fail or refuse to comply with any just or reason-
2 able order relative to this subsection from any duly
3 appointed law enforcement officer. The failure to comply
4 with the order constitutes a Class E crime.

5 Duly appointed municipal, county and state law enforcement
6 officers may arrest such persons as they find probable cause
7 to believe are in violation of any provisions of this sub-
8 section or any rules promulgated under this section.

9 28. Utilization of existing services and facili-
10 ties. In carrying out this section, the Governor and the
11 executive officers of governing bodies of the political sub-
12 divisions of the State shall utilize the services and facil-
13 ities of existing departments, offices and agencies of the
14 State and all the political subdivisions thereof to the
15 maximum extent practicable. The officers and personnel of
16 all the departments, offices and agencies shall cooperate
17 with and extend the services and facilities to the Governor
18 and to the civil emergency preparedness organizations of
19 this State upon request.

20 29. Dams and reservoirs; legislative findings. It is
21 the intent of the Legislature to provide emergency plans and
22 actions for the safe operation of dams and reservoirs in the
23 State to protect life and property.

24 The Bureau of Civil Emergency Preparedness shall exercise
25 authority over the emergency regulation or supervision of
26 any dams or reservoirs in the State, except as otherwise
27 provided by law.

28 30. Additional definitions. As used in this section,
29 unless the context otherwise indicates, the following terms
30 have the following meanings.

31 A. "Bureau" means the Bureau of Civil Emergency
32 Preparedness.

33 B. "Dam" means any artificial barrier, including
34 appurtenant works, which impounds or diverts water, and
35 which is 2 feet or more in height from the natural bed
36 of the stream or watercourse measured at the downstream
37 toe of the barrier or from the lowest elevation of the
38 outside limit of the barrier, if it is not a stream,
39 channel or watercourse, to the maximum capable water
40 storage elevation, or has an impounding capacity at
41 maximum water storage elevation of 15-acre feet or
42 more.

1 C. "Emergency" or "emergency situation" means a situa-
2 tion deemed by the bureau to present a potential but
3 real and imminent danger to life, limb or property.
4 This includes those situations which the Governor
5 declares to be an emergency pursuant to this section.
6 If time permits, the bureau shall consult with other
7 state and federal agencies in forming a judgment.

8 D. "Person" means any individual, firm, association,
9 partnership, corporation, trust, municipality,
10 quasi-municipal corporation, state agency, federal
11 agency or other legal entity.

12 E. "Reservoir" means the body of water immediately
13 upstream of a dam, which is reasonably still or slow
14 moving due to the stream barrier presented by the dam.

15 31. General provisions. The following limitations
16 apply to the provisions of this section.

17 A. Nothing in this section may be construed to deprive
18 any owner of such recourse to the court as he may be
19 entitled to under the laws of this State.

20 B. No action may be brought against the State, depart-
21 ment, bureau or its agents or employees for the recov-
22 ery of damages caused by the partial or total failure
23 of any dam or reservoir, or through the operation of
24 any dam or reservoir, upon the ground that the
25 defendant is liable by virtue of any of the following:

26 (1) The issuance or enforcement of orders rela-
27 tive to maintenance or operation of the dam or
28 reservoir;

29 (2) Control and regulation of the dam or reser-
30 voir; or

31 (3) Measures taken to protect against failure
32 during an emergency.

33 C. Nothing in this section may be construed as reliev-
34 ing any person from duties, responsibilities and lia-
35 bilities imposed by any other law, regulation, municip-
36 al ordinance or any rule of law.

37 32. Administrative provisions. Subsections 29 to 34
38 shall be administered by the bureau. In carrying out sub-
39 sections 29 to 34, the bureau shall consult with other state
40 agencies, including the State Soil and Water Conservation

1 Commission, State Planning Office, Department of Environ-
2 mental Protection, Department of Conservation, Department of
3 Transportation and Department of Public Safety, on matters
4 pertaining to the technical aspects of the administration of
5 subsections 29 to 34 and, in emergency situations, may re-
6 quire the aid and assistance of these agencies.

7 33. Powers of the bureau. The bureau has the follow-
8 ing powers.

9 A. Consistent with the Maine Administrative Procedure
10 Act, Title 5, chapter 375, the bureau may adopt, modify
11 or repeat such reasonable regulations as it deems
12 necessary for carrying out this subsection.

13 B. The bureau may, in emergency situations, issue such
14 reasonable orders as are necessary for carrying out
15 this subsection or regulations issued under this sub-
16 section.

17 C. For the purpose of enabling it to make decisions as
18 compatible with economy and protection of life and
19 property as possible, and for the purpose of determin-
20 ing compliance with this section, the bureau may make
21 such investigations and inspections as are necessary.
22 In furtherance of its duties, the bureau may secure
23 administrative warrants from any Justice of the Dis-
24 trict Court or Superior Court for the purpose of gain-
25 ing entry onto private property. In making the inves-
26 tigations and inspections required or authorized by
27 this section, the bureau or its representatives may, in
28 emergency situations, enter upon such public or private
29 property as may be necessary.

30 D. In the event of any violation of any of the provi-
31 sions of this section, or of any order, regulation or
32 decision of the bureau, the bureau may institute
33 injunctive proceedings or any other civil action or
34 criminal action.

35 E. When an emergency situation arises, the bureau
36 shall warn the public of the emergency and shall employ
37 all reasonable remedial means necessary to protect life
38 and property.

39 Remedial means which the bureau may employ include, but
40 are not limited to, the following:

41 (1) Taking full charge and control of any dam or
42 reservoir;

1 (2) Lowering the water level by releasing water
2 from the reservoir;

3 (3) Completely emptying the reservoir; and

4 (4) Taking such other steps as may be essential
5 to safeguard life and property, including the
6 breaching or removal of the dam itself.

7 F. The bureau shall develop contingency plans for the
8 safe passage of flood waters and for preparation prior
9 to flood conditions.

10 34. Exemptions. Dams and projects licensed by or sub-
11 ject to the jurisdiction of the Federal Energy Regulatory
12 Commission and dams and projects of public utilities that
13 have been certified by the Public Utilities Commission,
14 after inspection at least once in every 5 years and found to
15 be in a safe condition, are exempt from this section.

16 35. Penalties. In addition to any other penalties
17 provided by law, any person who violates any provisions of
18 this section, or any regulation or order promulgated or
19 issued under this section, commits a civil violation for
20 which a forfeiture of not less than \$100 nor more than
21 \$5,000 may be adjudged for each day that any violation con-
22 tinues.

23 36. Preparation and implementation of plans. The
24 bureau shall prepare and implement those emergency plans,
25 evacuation plans and other arrangements deemed necessary to
26 protect the public and property in the State from hazards or
27 dangers from radiation, radioactive materials, nuclear materi-
28 als or the occurrence of a radiological incident as a
29 result of the presence of, release of or emissions from
30 radioactive materials, radioactivity or nuclear materials in
31 this State. This subsection applies only to those hazards
32 or dangers which arise from the peaceful use of nuclear or
33 atomic materials.

34 37. Interstate Civil Defense and Disaster Compact.

35 A. Purpose - Article I. The purpose of this compact
36 is to provide mutual aid among the states in meeting
37 any emergency or disaster from enemy attack or other
38 cause, natural or otherwise, including sabotage and
39 subversive acts and direct attacks by bombs, shellfire
40 and atomic, radiological, chemical and bacteriological
41 means, and other weapons. The prompt, full and effec-
42 tive utilization of the resources of the respective

1 states, including such resources as may be available
2 from the Federal Government or any other source, are
3 essential to the safety, care and welfare of the people
4 thereof in the event of enemy action or other emer-
5 gency, and any other resources, including personnel,
6 equipment or supplies, shall be incorporated into a
7 plan or plans of mutual aid to be developed among the
8 civil emergency preparedness agencies or similar bodies
9 of the states that are parties thereto. The directors
10 of civil emergency preparedness of all party states
11 shall constitute a committee to formulate plans and
12 take all necessary steps for the implementation of this
13 compact.

14 B. Standards; rules and regulations - Article II. It
15 is the duty of each party state to formulate civil
16 emergency preparedness plans and programs for applica-
17 tion within the state. There shall be frequent consul-
18 tation between the representatives of the states and
19 with the Federal Government and the free exchange of
20 information and plans, including inventories of any
21 materials and equipment available for civil emergency
22 preparedness. In carrying out the civil emergency
23 preparedness plans and programs, the party states shall
24 as far as possible provide and follow uniform stan-
25 dards, practices and rules and regulations, including:

26 (1) Insignia, arm bands and any other distinctive
27 articles to designate and distinguish the differ-
28 ent civil emergency preparedness services;

29 (2) Blackouts and practice blackouts, air raid
30 drills, mobilization of civil emergency
31 preparedness forces and other tests and exercises;

32 (3) Warnings and signals for drills or attacks
33 and the mechanical devices to be used in connec-
34 tion therewith;

35 (4) The effective screening or extinguishing of
36 all lights and lighting devices and appliances;

37 (5) Shutting off water mains, gas mains, electric
38 power connections and the suspension of all other
39 utility services;

40 (6) All materials or equipment used or to be used
41 for civil emergency preparedness purposes in order
42 to assure that the materials and equipment will be
43 easily and freely interchangeable when used in or
44 by any other party state;

1 (7) The conduct of civilians and the movement and
2 cessation of movement of pedestrian and vehicular
3 traffic, prior, during and subsequent to drills or
4 attacks;

5 (8) The safety of public meetings or gatherings;
6 and

7 (9) Mobile support units.

8 C. Request for mutual aid - Article III. Any party
9 state requested to render mutual aid shall take such
10 action as is necessary to provide and make available
11 the resources covered by this compact in accordance
12 with the terms hereof. It is understood that the state
13 rendering aid may withhold resources to the extent
14 necessary to provide reasonable protection for that
15 state. Each party state shall extend to the civil
16 emergency preparedness forces of any other party state,
17 while operating within its state limits under the terms
18 and conditions of the compact, the same powers, except
19 that of arrest unless specifically authorized by the
20 receiving state, duties, rights, privileges and immuni-
21 ties as if they were performing their duties in the
22 state in which normally employed or rendering services.
23 Civil emergency preparedness forces will continue under
24 the command and control of their regular leaders, but
25 the organizational units will come under the opera-
26 tional control of the civil emergency preparedness
27 authorities of the state receiving assistance.

28 D. Special skills - Article IV. Whenever any person
29 holds a license, certificate or other permit issued by
30 any state evidencing the meeting of qualifications for
31 professional, mechanical or other skills, the person
32 may render aid involving that skill in any party state
33 to meet an emergency or disaster and the state shall
34 give due recognition to that license, certificate or
35 other permit as if issued in the state in which aid is
36 rendered.

37 E. Liability - Article V. No party state or its offi-
38 cers or employees rendering aid in another state pur-
39 suant to this compact may be liable on account of any
40 act or omission in good faith on the part of such
41 forces while so engaged, or on account of the mainte-
42 nance or use of any equipment or supplies in connection
43 therewith.

1 F. Supplementary agreements - Article VI. Inasmuch as
2 it is probable that the pattern and detail of the
3 machinery for mutual aid among 2 or more states may
4 differ from that appropriate among other states party
5 hereto, this instrument contains elements of a broad
6 base common to all states, and nothing contained in
7 this section may preclude any state from entering into
8 supplementary agreements with another state or states.
9 These supplementary agreements may comprehend, but
10 shall not be limited to, provisions for evacuation and
11 reception of injured and other persons and the exchange
12 of medical, fire, police, public utility,
13 reconnaissance, welfare, transportation and communica-
14 tions personnel, equipment and supplies.

15 G. Compensation and death benefits - Article
16 VII. Each party state shall provide for the payment of
17 compensation and death benefits to injured members of
18 the civil emergency preparedness forces of that state
19 and the representatives of deceased members of these
20 forces in case the members sustain injuries or are
21 killed while rendering aid pursuant to this compact, in
22 the same manner and on the same terms as if the injury
23 or death were sustained within the state.

24 H. Reimbursement - Article VIII. Any party state
25 rendering aid in another state pursuant to this compact
26 shall be reimbursed by the party state receiving that
27 aid for any loss or damage to, or expense incurred in
28 the operation of, any equipment answering a request for
29 aid and for the cost incurred in connection with such
30 requests. Any aiding party state may assume in whole
31 or in part the loss, damage, expense or other cost, or
32 may loan the equipment or donate the services to the
33 receiving party without charge or cost. Any 2 or more
34 party states may enter into supplementary agreements
35 establishing a different allocation of costs as among
36 those states. The Federal Government may relieve the
37 party state receiving aid from any liability and reim-
38 burse the party state supplying civil emergency
39 preparedness forces for the compensation paid to, and
40 the transportation, subsistence and maintenance
41 expenses of, such forces during the time of the rendi-
42 tion of such aid or assistance outside the state and
43 may pay fair and reasonable compensation for the use or
44 utilization of the supplies, materials, equipment or
45 facilities utilized or consumed.

46 I. Evacuation - Article IX. Plans for the orderly
47 evacuation and reception of the civilian population as

1 the result of an emergency or disaster shall be worked
2 out from time to time between representatives of the
3 party states and the various local civil emergency
4 preparedness areas thereof. These plans shall include
5 the manner of transporting these evacuees, the number
6 of evacuees to be received in different areas, the man-
7 ner in which food, clothing, housing and medical care
8 will be provided, the registration of the evacuees, the
9 providing of facilities for the notification of rela-
10 tives or friends and the forwarding of the evacuees to
11 other areas or the bringing in of additional materials,
12 supplies and all other relevant factors. The plans
13 shall provide that the party state receiving evacuees
14 shall be reimbursed generally for the out-of-pocket
15 expenses incurred in receiving and caring for the
16 evacuees, for expenditures for transportation, food,
17 clothing, medicines and medical care and like items.
18 These expenditures shall be reimbursed by the party
19 state of which the evacuees are residents or by the
20 Federal Government under plans approved by it. After
21 the termination of the emergency or disaster, the party
22 state of which the evacuees are residents shall assume
23 the responsibility for the ultimate support or
24 repatriation of the evacuees.

25 J. Availability of compact - Article X. This compact
26 shall be available to any state, territory or posses-
27 sion of the United States and the District of Columbia.
28 The term "state" may include any neighboring foreign
29 country or province or state thereof.

30 K. Participation of federal agency - Article XI. The
31 committee established pursuant to Article I may request
32 the civil emergency preparedness agency of the Federal
33 Government to act on an informational and coordinating
34 body under this compact, and representatives of such
35 agency of the Federal Government may attend meetings of
36 the committee.

37 L. Entry into force - Article XII. This compact shall
38 become operative immediately upon its ratification by
39 any state as between it and any other state or states
40 so ratifying and shall be subject to approval by Con-
41 gress, unless prior congressional approval has been
42 given. Duly authenticated copies of this compact and
43 of such supplementary agreements as may be entered into
44 shall, at the time of their approval, be deposited with
45 each of the party states and with the civil emergency
46 preparedness agency and other appropriate agencies of
47 the Federal Government.

1 M. Withdrawal - Article XIII. This compact shall con-
2 tinue in force and remain binding on each party state
3 until the legislature or the governor of the party
4 state takes action to withdraw therefrom. The action
5 shall not be effective until 30 days after notice
6 thereof has been sent, by the governor of the party
7 state desiring to withdraw, to the governors of all
8 other party states.

9 N. Construction and separability of provi-
10 sions - Article XIV. This compact shall be construed
11 to effectuate the purposes stated in Article I. If any
12 provision of this compact is declared unconstitutional
13 or the applicability thereof to any person or circum-
14 stance is held invalid, the constitutionality of the
15 remainder of this compact and the applicability thereof
16 to other persons and circumstances shall not be
17 affected thereby.

18 O. The Governor may approve the Interstate Civil
19 Defense and Disaster Compact and, after approving the
20 compact, shall cause it to be filed with the Secretary
21 of State. The Secretary of State shall cause certified
22 or exemplified copies of the compact to be forwarded
23 and deposited with all interested governmental agen-
24 cies, as required by United States Public Law 920, 81st
25 Congress, or with other states, governments or polit-
26 ical subdivisions thereof as may be necessary or desir-
27 able under the statutes of this State.

28 38. Sabotage prevention. This section may be cited as
29 the "Sabotage Prevention Act."

30 39. Relations to other statutes. All Acts and parts
31 of Acts inconsistent with this section are suspended in
32 their application to any proceedings under this section. If
33 conduct prohibited by this section is made unlawful by other
34 laws, the offender may be convicted for the violation of
35 this section or of those other laws.

36 40. Rights of labor unaffected. Nothing in this
37 section may be construed to impair, curtail or destroy the
38 lawful rights of employees and their representatives to
39 self-organization, to form, join or assist labor organiza-
40 tions, bargain collectively through representatives of their
41 own choosing, strike, picket and engage in concerted activi-
42 ties for the purpose of collective bargaining or other
43 mutual aid or protection.

1 41. Other definitions. As used in this section,
2 unless the context indicates otherwise, the following terms
3 have the following meanings.

4 A. "Highway" includes any private or public street,
5 way or other place used for travel to or from property.

6 B. "Public utility" includes any pipe line, gas, elec-
7 tric, heat, water, oil, sewer, telephone, telegraph,
8 radio, railway, railroad, airplane, transportation,
9 communication or other system by whomever owned or
10 operated for public use.

11 42. Intentional injury or interference with prop-
12 erty. Whoever intentionally destroys, impairs, injures,
13 interferes or tampers with real or personal property with
14 reasonable grounds to believe that such act will hinder,
15 delay or interfere with the preparation of the United States
16 or of any of the states for defense or for war, or with the
17 prosecution of war by the United States, or with prepara-
18 tions and plans for civil emergency preparedness, or with
19 the execution thereof under this section, is guilty of a
20 Class B crime. If that person acts with the intent to
21 hinder, delay or interfere with the preparation of the
22 United States or of any of the states for defense or for
23 war, or with the prosecution of war by the United States, or
24 with preparations and plans for civil emergency
25 preparedness, or with the execution thereof under this
26 section, the minimum sentence shall be imprisonment for not
27 less than one year, which minimum sentence shall not be sus-
28 pending.

29 43. Intentional defective workmanship. Whoever inten-
30 tionally makes, causes to be made or omits to note on
31 inspection, any defect in any article or thing with reason-
32 able grounds to believe that that article or thing is
33 intended to be used in connection with the preparation of
34 the United States or any of the states for defense or for
35 war, or for the prosecution of war by the United States, or
36 with preparations and plans for civil emergency
37 preparedness, or with the execution thereof under this
38 section, or that that article or thing is one of a number of
39 similar articles or things, some of which are intended so to
40 be used, is guilty of a Class B crime. If that person acts
41 or fails to act with the intent to hinder, delay or inter-
42 ferre with the preparation of the United States or of any of
43 the states for defense or for war, or with the prosecution
44 of war by the United States, or with preparations and plans
45 for civil emergency preparedness, or with the execution
46 thereof under this section, the minimum sentence shall be

1 imprisonment for not less than one year, which minimum sen-
2 ence shall not be suspended.

3 44. Conspirators. If 2 or more persons conspire to
4 commit any crime defined by this section, each of those per-
5 sons is guilty of a violation of Title 17-A, section 151,
6 provided that the conspiracy is a crime of the same class as
7 the crime which those persons conspired to commit, whether
8 or not any act was done in furtherance of the conspiracy.

9 45. Compelling evidence. The testimony of a person
10 and the production of evidence in a criminal prosecution
11 under this chapter may be compelled in accordance with Title
12 15, section 1314-A.

13 46. Unlawful entry on property. Any individual, part-
14 nership, association, corporation, municipal corporation or
15 state or any political subdivision thereof engaged in, or
16 preparing to engage in, the manufacture, transportation or
17 storage of any product to be used in the preparation of the
18 United States or of any of the states for defense or for
19 war, or in the prosecution of war by the United States, or
20 with preparations and plans for civil emergency
21 preparedness, or with the execution thereof under this
22 section, or the manufacture, transportation, distribution or
23 storage of gas, oil, coal, electricity or water, or any of
24 the natural or artificial persons operating any public util-
25 ity, whose property, except where it fronts on water or
26 where there are entrances for railway cars, vehicles, per-
27 sons or things, is surrounded by a fence or wall, or a fence
28 or wall and buildings, may post, around his or its property
29 at each gate, entrance, dock or railway entrance and every
30 100 feet of water front, a sign reading "No Entry Without
31 Permission." Whoever without permission of that owner
32 intentionally enters upon premises so posted is guilty of a
33 Class E crime.

34 47. Questioning and detaining suspected persons. Any
35 law enforcement officer or any person employed as watchman,
36 guard or in a supervisory capacity on premises posted, as
37 provided in subsection 46, may stop any person found on any
38 premises to which entry without permission is forbidden by
39 subsection 46 and may detain him for the purpose of demand-
40 ing, and may demand of him, his name, address and business
41 in that place. If the law enforcement officer or employee
42 has reason to believe from the answers of the person so
43 interrogated that the person has no right to be in that
44 place, the officer or employee shall forthwith release the
45 person or he may arrest the person without a warrant on the
46 charge of violating subsection 46. The employee shall

1 forthwith release the person or turn him over to an officer
2 or employee who may arrest him without a warrant on the
3 charge of violating subsection 46.

4 48. Closing and restricting use of highway; pen-
5 alty. Any individual, partnership, association, corpora-
6 tion, municipal corporation or state, or any political sub-
7 division thereof, engaged in or preparing to engage in the
8 manufacture, transportation or storage of any product to be
9 used in the preparation of the United States or any of the
10 states for defense or for war or in the prosecution of war
11 by the United States, or with preparations and plans for
12 civil emergency preparedness, or with the execution thereof
13 under this section, or in the manufacture, transportation,
14 distribution or storage of gas, oil, coal, electricity or
15 water, or any of the natural or artificial persons operating
16 any public utility, who has property so used which he or it
17 believes will be endangered if public use and travel is not
18 restricted or prohibited on one or more highways, or parts
19 thereof, upon which the property abuts, may petition the
20 Department of Transportation, in the case of state and
21 state-aid highways outside of compact or built-up sections
22 of towns having a population of 5,000 and over, or the
23 municipal officers of any city, town or county, in the case
24 of other highways, to close one or more of the highways.
25 Upon receipt of the petition, the Department of Transporta-
26 tion, in the case of state and state-aid highways outside
27 compact or built-up sections of towns having a population of
28 5,000 or more, or the municipal officers, in the case of
29 other highways, shall set a day for hearing. If, after
30 hearing, the department or the municipal officers determine
31 that the public safety and the safety of the property of the
32 petitioner so require, they shall by suitable order close to
33 public use and travel, or reasonably restrict the use of and
34 travel upon one or more of the highways or parts thereof.
35 The department or the municipal officers may issue written
36 permits to travel over the highways so closed or restricted
37 to responsible and reputable persons for such term, under
38 such conditions and in such form as the department or munic-
39 ipal officers may prescribe. Appropriate notices in letters
40 at least 3 inches high shall be posted conspicuously at each
41 end of any highway so closed or restricted by the order.
42 The department or municipal officers may at any time revoke
43 or modify any order so made. Whoever violates any order
44 made under this section is guilty of a Class E crime.

45 §5. Maine Code of Military Justice

46 1. Name. This section shall be known as the "Maine
47 Code of Military Justice."

1 2. Definitions. As used in this code, unless the con-
2 text otherwise indicates, the following terms have the fol-
3 lowing meanings.

4 A. "Accuser" means a person who signs and swears to
5 charges, any person who directs that charges nominally
6 be signed and sworn by another, and any other person
7 who has interest other than an official interest in the
8 prosecution of the accused.

9 B. "Active state service" or "active service of the
10 State" includes all military duty performed by a member
11 of the state military forces by order of the Governor
12 under this Title or performed under the United States
13 Code, Title 32.

14 C. "Code" means the Maine Code of Military Justice.

15 D. "Commanding officer" means any commissioned officer
16 vested with the authority for the direction, coordina-
17 tion and control of a military unit.

18 E. "Enlisted person" means any person who is serving
19 in an enlisted grade in any military force.

20 F. "Military forces" means the state military forces
21 of the State, as defined in section 2, subsection 3, or
22 any element thereof when called into active state ser-
23 vice.

24 G. "Military judge" means an official of a court-
25 martial detailed in accordance with subsection 22.

26 H. "Military unit" means any military element whose
27 structure is prescribed by competent authority, such as
28 a table of organization and equipment.

29 I. "Officer" means a commissioned or warrant officer.

30 J. "Superior officer" means an officer superior in
31 rank or command.

32 3. Jurisdiction of persons subject to code. The fol-
33 lowing persons are subject to this code: All members of the
34 state military forces when not in active service of the
35 United States and when under orders to be in the active ser-
36 vice of the State. The Governor may order to active state
37 service any member or former member of the state military
38 forces for purposes of asserting jurisdiction in connection
39 with prosecuting an offense alleged to have occurred while
40 the person was in active state service.

1 4. Fraudulent discharge. All persons discharged from
2 the state military forces subsequently charged with having
3 fraudulently obtained the discharge shall be subject to
4 trial by court-martial on the charge and shall after appre-
5 hension be subject to this code while in the custody of the
6 military forces for the trial. Upon conviction of the
7 charge, such persons shall be subject to trial by court-
8 martial for all offenses under this code committed prior to
9 the fraudulent discharge.

10 Any person who has deserted from the state military forces
11 shall not be relieved from amenability to the jurisdiction
12 of this code by virtue of a separation from any subsequent
13 period of service.

14 5. Places where applicable. This code is applicable
15 in all places where any member of the state military forces
16 is present while under orders to be in the active service of
17 the State.

18 6. State Judge Advocate; Judge Advocates. The Adju-
19 tant General shall appoint the number of Judge Advocates
20 among the state military forces as he deems appropriate, but
21 at least one for the Army and one for the Air National
22 Guard. The Adjutant General shall appoint as State Judge
23 Advocate one of the Judge Advocates from the National Guard.

24 7. Apprehension by military authority. Apprehension
25 is the taking into custody of a person.

26 All officers, warrant officers and noncommissioned officers
27 may apprehend persons subject to this code, or to trial
28 under this code, may do so upon reasonable belief that an
29 offense under this code, has been committed and that the
30 persons apprehended committed an offense.

31 Additionally, all officers, warrant officers and noncommis-
32 sioned officers may quell all quarrels, frays and disorders
33 among persons subject to this code and apprehend persons
34 subject to this code who take part in the disorders.

35 8. Apprehension by civil authority. It is lawful for
36 any civil officer having authority to apprehend offenders
37 under the laws of this State summarily to apprehend a
38 deserter from the state military forces, or a member of the
39 state military forces absent without leave, and deliver him
40 into the custody of the appropriate state military force
41 component. Without limiting the authority, upon written
42 certification from the Adjutant General that a member is ab-
43 sent without leave from military duty, the civil officer,

1 upon the Adjutant General's request, shall apprehend the
2 member and deliver him to duty in accordance with the
3 request.

4 9. Arrest or confinement. Arrest is the restraint of
5 a person by an order not imposed as a punishment for an
6 offense directing him to remain within certain specified
7 limits. Confinement is the physical restraint of a person.

8 An enlisted person may be ordered into arrest or confinement
9 by any officer by an order, oral or written, delivered in
10 person or through other persons subject to this code. A
11 commanding officer may authorize warrant officers or noncom-
12 missioned officers to order enlisted persons of his command
13 or subject to his authority into arrest or confinement.

14 An officer or warrant officer may be ordered into arrest or
15 confinement only by a commanding officer to whose authority
16 he is subject, by an order, oral or written, delivered in
17 person or by another officer. The authority to order such
18 persons into arrest or confinement may not be delegated.

19 No person may be ordered into arrest or confinement except
20 for probable cause.

21 Nothing in this subsection may be construed to limit the
22 authority of persons authorized to apprehend and secure the
23 custody of an alleged offender until proper authority may be
24 notified.

25 10. Accused must be informed of charges. Any person
26 subject to this code charged with an offense under this code
27 shall be ordered into arrest or confinement, as circum-
28 stances may require. When any person subject to this code
29 is placed in arrest or confinement prior to trial, immediate
30 steps shall be taken to inform him of the specific wrong of
31 which he is accused and to try him, or to dismiss the
32 charges and release him.

33 11. Confinement. Confinement and imprisonment other
34 than in a guardhouse, whether prior to, during or after
35 trial by a military court, shall be executed in jails,
36 penitentiaries or prisons designated by the Governor or by
37 the Adjutant General for that purpose.

38 12. Report of persons held. No provost marshal, com-
39 mander of a guard, warden, keeper or officer of a city or
40 county jail or any other jail, penitentiary or prison, des-
41 ignated by the Governor or Adjutant General under subsection
42 11, may refuse to receive or keep any prisoner committed to

1 his charge by an officer of the military forces, when the
2 committing officer furnishes a statement, signed by him, of
3 the offense charged against the prisoner.

4 Every commander of a guard, warden, keeper or officer of a
5 city or county jail or any other jail, penitentiary or
6 prison, designated by the Governor or Adjutant General under
7 subsection 11, to whose charge a prisoner is committed
8 shall, within 24 hours after the commitment or as soon as he
9 is relieved from guard, report to the Adjutant General the
10 name of the prisoner, the offense charged against him and
11 the name of the person who ordered or authorized commitment.

12 13. Application of United States Manual for Courts-
13 martial. Insofar as it is not inconsistent with this code,
14 the United States Manual for Courts-martial, as established
15 by executive order of the President of the United States,
16 shall be in force and effect and apply to the military
17 forces of this State.

18 14. Military justice and regulations. Insofar as it
19 is not inconsistent with this code, the Governor shall
20 establish the United States Manual for Courts-martial, with
21 amendments thereto, as regulations to be used with this
22 Maine Code of Military Justice.

23 15. Nonjudicial punishment. The following nonjudicial
24 punishments may be imposed.

25 A. Under such regulations as the Governor may pre-
26 scribe, limitations may be placed on the powers granted
27 by this section with respect to the kind and amount of
28 punishment authorized, and the categories of commanding
29 officers and warrant officers exercising command
30 authorized to exercise these powers. Under similar
31 regulations, rules may be prescribed with respect to
32 the suspension of punishment authorized under this
33 section. Notwithstanding the foregoing, punishment may
34 not be imposed upon any member of the state military
35 forces under this subsection if the member has, before
36 imposition of the punishment, requested that the matter
37 be disposed of by nonjudicial punishment panel pursuant
38 to subsection 16. Further, punishment may not be
39 imposed under this subsection or subsection 16 if the
40 member has, before the imposition of punishment under
41 this subsection, or before the convening of a nonjudi-
42 cial punishment panel under subsection 16, demanded
43 trial by court-martial.

1 B. Subject to paragraph A, any commanding officer may,
2 in addition to or in lieu of admonition or reprimand,
3 impose one or more of the following disciplinary pun-
4 ishments for minor offenses without the intervention of
5 a court-martial:

6 (1) Upon officers of his command:

7 (a) Restriction to certain specified limits,
8 with or without suspension from duty, for not
9 more than 10 consecutive active state duty
10 days; or

11 (b) If imposed by a general officer in com-
12 mand, arrest in quarters for not more than 14
13 consecutive active state duty days; forfei-
14 ture of not more than one of each 2-days' pay
15 for 60 consecutive pay days; restriction to
16 certain specified limits, with or without
17 suspension from duty, for not more than 14
18 consecutive active state duty days; or deten-
19 tion of not more than one of each 2-days' pay
20 for 90 consecutive pay days; and

21 (2) Upon other personnel of his command:

22 (a) Correctional custody for not more than 7
23 consecutive active state duty days;

24 (b) Forfeiture of not more than 7-days' pay;

25 (c) A fine in an amount not greater than
26 that which could be forfeitable;

27 (d) Reduction to the next inferior pay
28 grade, if the grade from which demoted is
29 within the promotion authority of the officer
30 imposing the reduction or any officer sub-
31 ordinate to the one who imposes the reduc-
32 tion;

33 (e) Extra duties, including fatigue or other
34 duties, for not more than 10 consecutive ac-
35 tive state duty days;

36 (f) Restriction to certain specified limits,
37 with or without suspension from duty, for not
38 more than 10 consecutive active state duty
39 days;

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(g) Detention of not more than 14-days' pay; or

(h) If imposed by an officer of the grade of Major or above, correctional custody for not more than 14 consecutive active state duty days; forfeiture of not more than one of each 2-days' pay for 60 consecutive pay days; reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than 2 pay grades; extra duties, including fatigue or other duties, for not more than 14 consecutive active state duty days; restrictions to certain specified limits, with or without suspension from duty, for not more than 14 consecutive active state duty days; or detention of not more than one of each 2-days' pay for 90 consecutive days. Detention of pay shall be for a stated period, but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. No 2 or more of the punishments of arrest in quarters, correctional custody, extra duties and restriction may be combined to run consecutively in the maximum amount imposable for each. Whenever any of those punishments are combined to run consecutively, there must be an apportionment. In addition, forfeiture of pay, a fine or detention of pay, or both, may not be combined without an apportionment. For the purposes of this subsection, correctional custody is the physical restraint of a person during duty or nonduty hours and may include extra duties, fatigue duties or hard labor. If practicable, correctional custody shall not be served in immediate association with persons awaiting trial or held in confinement pursuant to trial by court-martial.

C. An officer in charge may impose upon enlisted members assigned to his unit such of the punishments authorized under this subsection.

1 D. The officer who imposes the punishment authorized
2 in this subsection, or his successor in command, may,
3 at any time, suspend probationally any part or amount
4 of the unexecuted punishment imposed and may suspend
5 probationally a reduction in grade or a forfeiture
6 imposed under this subsection, whether or not executed.
7 In addition, he may, at any time, remit or mitigate any
8 part or amount of the unexecuted punishment imposed and
9 may set aside in whole or in part the punishment,
10 whether executed or unexecuted, and restore all rights,
11 privileges and property affected. He may also mitigate
12 reduction in grade to forfeiture or detention of pay.
13 When mitigating:

14 (1) Arrest in quarters to restriction; or

15 (2) Extra duties to restriction, the mitigated
16 punishment shall not be for a greater period than
17 the punishment mitigated.

18 When mitigating forfeiture or pay to detention of pay,
19 the amount of the detention shall not be greater than
20 the amount of the forfeiture. When mitigating reduc-
21 tion in grade to forfeiture or detention of pay, the
22 amount of the forfeiture or detention shall not be
23 greater than the amount that could have been imposed
24 initially under this subsection by the officer who
25 imposed the punishment mitigated.

26 E. A person punished under this subsection who consid-
27 ers his punishment unjust or disproportionate to the
28 offense may, through the proper channel, appeal to the
29 next superior authority. The appeal shall be promptly
30 forwarded and decided, but the person punished may in
31 the meantime be required to undergo the punishment ad-
32 judged. The superior authority may exercise the same
33 powers with respect to the punishment imposed as may be
34 exercised under this subsection by the officer who
35 imposed the punishment. Before acting on an appeal
36 from a punishment of:

37 (1) Arrest in quarters for more than 7 days;

38 (2) Correctional custody for more than 7 days;

39 (3) Forfeiture of or a fine equal to more than
40 7-days' pay;

41 (4) Reduction of one or more pay grades from the
42 4th or a higher pay grade;

1 (5) Extra duties for more than 10 days;

2 (6) Restriction for more than 10 days; or

3 (7) Detention of more than 14-days' pay,

4 the authority who is to act on the appeal shall refer
5 the case to a Judge Advocate for consideration and
6 advice, and may refer the case upon appeal from any
7 punishment imposed under paragraph B.

8 F. The imposition and enforcement of disciplinary pun-
9 ishment under this subsection for any act or omission
10 is not a bar to trial by court-martial for a serious
11 crime or offense growing out of the same act or omis-
12 sion, and not properly punishable under this subsec-
13 tion, but the fact that a disciplinary punishment has
14 been enforced may be shown by the accused upon trial
15 and, when shown, shall be considered in determining the
16 measure of punishment to be adjudged in the event of a
17 finding of guilty.

18 G. The Adjutant General may, by regulation, prescribe
19 the form of records to be kept of proceedings under
20 this subsection and may prescribe that certain catego-
21 ries of those proceedings shall be in writing.

22 H. Any punishment authorized by this subsection which
23 is measured in terms of active state service days shall
24 be construed to mean the consecutive days on which an
25 individual is in an active state service status, irre-
26 spective of whether there is one or more nonactive duty
27 days between the active service days.

28 I. A fine imposed pursuant to paragraph B,
29 subparagraph (2), may be enforced as a money judgment
30 in accordance with Title 14, section 3121 to 3137.

31 16. Nonjudicial punishment panel. In the event that a
32 member of the state military forces demands that nonjudicial
33 punishment proceedings against or with respect to him be
34 disposed of by a hearing before a nonjudicial punishment
35 panel in lieu of his commanding officer, then this subsec-
36 tion shall apply.

37 A. Election for hearing and disposition by the panel
38 shall be made by the individual promptly following
39 receipt from the commanding officer specifying the
40 nature of the alleged wrongdoing, his intent to dispose
41 of the matter, if further action after investigation is

1 warranted, by nonjudicial punishment, and his advice to
2 the individual of his right to counsel, and other non-
3 judicial punishment procedural rights as set forth by
4 regulation. The individual will be provided oppor-
5 tunity to consult with a Judge Advocate prior to making
6 his election.

7 B. The panel shall consist of 3 members, appointed by
8 the commander's next higher authority, with the same
9 qualifications as provided in subsection 21 with
10 respect to membership on a court-martial. The junior
11 member shall be designated recorder and shall record
12 summaries of the proceedings. The senior member shall
13 be designated chairman.

14 C. The panel by majority vote has the same authority
15 and responsibility in conducting the proceeding and in
16 disposing of the matter, including imposing nonjudicial
17 punishment, as has a field grade officer pursuant to
18 subsection 15, paragraph B, subparagraph (2). The
19 panel shall forward its recommendation for disposition
20 and imposition of punishment to the appointing author-
21 ity. The appointing authority shall approve the recom-
22 mended punishment or such part or amount as he sees fit
23 and may suspend, mitigate or remit as he deems appro-
24 priate. The appointing authority may not approve any
25 punishment in excess of that approved by the panel.

26 D. The procedural requirements for a nonjudicial pun-
27 ishment hearing and disposition thereof, by the panel
28 under this subsection, shall in all respects be the
29 same as would otherwise be applicable for disposition
30 under subsection 15, paragraph B, subparagraph (2),
31 including, without limitation, the individual's right
32 to counsel, submit matter in extenuation, mitigation or
33 defense, the examination of and calling of witnesses,
34 to the extent witnesses are reasonably available.

35 E. Appeals from the decision of the appointing author-
36 ity, if adverse to the individual, may be taken
37 directly to the next higher authority which shall have
38 the same authority to act upon the appeal as set forth
39 in subsection 15, paragraph E, with respect to nonjudi-
40 cial punishment appeals generally.

41 17. Court-martial. There shall be a court-martial
42 which shall consist of a military judge and not less than 3
43 members, or only a military judge, if, before the court is
44 assembled, the accused, knowing the identity of the military
45 judge and after consultation with defense counsel, requests

1 in writing a court composed only of a military judge and the
2 military judge approves.

3 18. Sentences. A court-martial as defined in this
4 code shall have jurisdiction to try persons subject to this
5 code for any offense defined and made punishable by this
6 code and, under such limitations and regulations as the Ad-
7 jutant General, with the approval of the Governor, may pre-
8 scribe and adjudge any of the following penalties:

9 A. Confinement at hard labor for not more than 6
10 months;

11 B. Hard labor without confinement for not more than 3
12 months;

13 C. Forfeitures or detentions of pay not exceeding 2/3
14 pay per month for 6 months or, if in a drill status
15 only, 2 of each 3-days' pay for 90 consecutive pay days
16 or fines equal to the sum which could be forfeitable;

17 D. Dismissal;

18 E. Bad conduct discharge;

19 F. Dishonorable discharge;

20 G. Reprimand; or

21 H. Reduction of noncommissioned officers to the ranks;
22 and combination of any 2 or more of the punishments in
23 the sentence imposed.

24 A fine imposed pursuant to this subsection may be enforced
25 as a money judgment in accordance with Title 14, section
26 3121 to 3137.

27 19. Jurisdiction. The jurisdiction of a court-martial
28 is limited to trial of persons accused of military offenses
29 as described in this code. Persons subject to this code who
30 are accused of offenses cognizable by the civil courts of
31 this State or any other state where the military forces are
32 present in that state may, upon accusation, be promptly sur-
33 rendered to civil authorities for disposition, urgencies of
34 the service considered. If the person subject to this code
35 is accused of both a military offense under this code and a
36 civil offense by the civil authorities, he shall be released
37 to the civil authorities if the crime for which he is ac-
38 cused by the civil authorities carries a penalty in excess
39 of the maximum penalty provided by this code, provided that

1 the disposition of the civil offense shall not limit or
2 affect the applicability of this code to the military
3 offense for which the person is accused.

4 20. Who may convene a court-martial. A court-martial
5 may be convened by the Governor or the Adjutant General.

6 21. Composition of court-martial. A court-martial may
7 be composed as follows.

8 A. Any commissioned officer is eligible to serve on
9 any court-martial for the trial of any person who may
10 lawfully be brought before the court for trial.

11 B. Any warrant officer is eligible to serve on a
12 court-martial for the trial of any person, other than a
13 commissioned officer, who may lawfully be brought
14 before the court for trial.

15 C. Any enlisted member, who is not a member of the
16 same unit as the accused, is eligible to serve on a
17 court-martial for the trial of any enlisted member of
18 the Armed Forces who may lawfully be brought before the
19 court for trial, but he shall serve as a member of a
20 court only if, before the conclusion of a session
21 called by the military judge prior to trial or, in the
22 absence of such a session, before the court is assem-
23 bled for the trial of the accused, the accused person-
24 ally has requested in writing that enlisted members
25 serve on the court-martial. After the request, the ac-
26 cus-ed may not be tried by a court-martial if the
27 membership of the court-martial does not include
28 enlisted members in a number comprising at least 1/3 of
29 the total membership of the court, unless eligible
30 enlisted members cannot be obtained on account of
31 physical conditions or military exigencies. If the
32 members cannot be obtained, the court may be assem-
33 bled and the trial held without the members, but the assem-
34 bling authority shall make a detailed written state-
35 ment, to be appended to the record, stating why they
36 could not be obtained.

37 In this subsection, the word "unit" means any regularly
38 organized body, as defined by the Governor, but in no
39 case may it be a body larger than a company, squadron
40 or body corresponding to one of them.

41 D. When it can be avoided, no member of the military
42 forces may be tried by a court-martial if any member of
43 the court-martial is junior to him in rank or grade.

1 When convening a court-martial, the convening authority
2 shall detail as members thereof the members of the
3 military forces as, in his opinion, are best qualified
4 for the duty by reason of age, education, training,
5 experience, length of service and judicial temperament.
6 No member of the military forces is eligible to serve
7 as a member of a court-martial when he is the accuser
8 or a witness for the prosecution or has acted as inves-
9 tigating officer or as counsel in the same case.

10 22. Military judge. A military judge shall preside
11 over courts-martial according to the following provisions.

12 A. The authority convening a court-martial shall des-
13 ignate a military judge to preside over each case.

14 B. A military judge shall be a commissioned officer of
15 the National Guard, reserve component or a retired
16 officer of the Armed Forces of the United States, who
17 is a member of the bar of the Supreme Judicial Court of
18 Maine or a member of the bar of a federal court or of
19 the highest court of a state, and who is certified to
20 be qualified for the duty by the State Judge Advocate.

21 C. No person is eligible to act as military judge in a
22 case if he is the accuser or a witness for the prose-
23 cution or has acted as investigation officer or a coun-
24 sel in the same case.

25 D. A commissioned officer who is certified to be qual-
26 ified for duty as a military judge of a court-martial
27 may perform the duties only when he is detailed by the
28 Adjutant General and may perform duties of a judicial
29 or nonjudicial nature, other than those relating to his
30 duty as a military judge of a court-martial, when the
31 duties are assigned to him by or with the approval of
32 the State Judge Advocate. The military judge of a
33 court-martial may not consult with the members of the
34 court, except in the presence of the accused, trial
35 counsel and defense counsel, nor may he vote with the
36 members of the court.

37 23. Counsel. Trial counsel and defense counsel for a
38 court-martial shall be detailed as follows.

39 A. For each court-martial, the authority convening the
40 court shall detail trial counsel and defense counsel,
41 and such assistants as he considers appropriate. No
42 person who has acted as investigating officer, military
43 judge or court member in any case may act later as

1 trial counsel, assistant trial counsel or, unless
2 expressly requested by the accused, as defense counsel
3 or assistant defense counsel in the same case. No
4 person who has acted for the prosecution may act later
5 in the same case for the defense, nor may any person
6 who has acted for the defense act later in the same
7 case for the prosecution.

8 B. Trial counsel or defense counsel detailed for a
9 court-martial:

10 (1) Must be a graduate of an accredited law
11 school and a member of the bar of this State, or
12 must be a member of the bar of a federal court or
13 of the highest court of a state; and

14 (2) Must be certified by the State Judge Advocate
15 as competent to perform the duties.

16 24. Court reporters. Under such regulations as the
17 Governor or Adjutant General may prescribe, the convening
18 authority of a court-martial, military commission or court
19 of inquiry shall detail or employ qualified court reporters,
20 who shall record the proceedings of and testimony taken
21 before that court or commission. In lieu of a court
22 reporter, the Governor or Adjutant General may authorize the
23 use of audio tape or other electronic transcription equip-
24 ment to record proceedings. Under like regulations, the
25 convening authority of a court-martial, military commission
26 or court of inquiry may detail or employ interpreters, who
27 shall interpret for the court or commission.

28 25. Members of court-martial. The following shall
29 apply to members of a court-martial.

30 A. No member of a court-martial may be absent or
31 excused after the court has been assembled for the
32 trial of the accused, except for physical disability or
33 as a result of a challenge or by order of the convening
34 authority for good cause.

35 B. Whenever a court-martial, other than a court-
36 martial composed of a military judge only, is reduced
37 below 3 members, the trial may not proceed unless the
38 convening authority details new members sufficient in
39 number to provide not less than 3 members. The trial
40 may proceed with the new members present after the
41 recorded evidence previously introduced before the mem-
42 bers of the court has been read to the court in the
43 presence of the military judge, the accused and counsel
44 for both sides.

1 C. If the military judge of a court-martial, composed
2 of a military judge only, is unable to proceed with the
3 trial because of physical disability, as a result of a
4 challenge, or for other good cause, the trial shall
5 proceed, subject to any applicable conditions of this
6 subsection, after the detail of a new military judge,
7 as if no evidence had previously been introduced,
8 unless a verbatim record of the evidence previously
9 introduced or a stipulation thereof is read in court in
10 the presence of the new military judge, the accused and
11 counsel for both sides.

12 26. Pretrial procedures. The pretrial and trial
13 procedures before a court-martial shall be in accordance
14 with the procedures set forth in the Uniform Code of Mili-
15 tary Justice of the United States, Title 10, United States
16 Code, chapter 47, for a special court-martial as of the
17 effective date of this code, and according to regulations
18 prescribed by the President of the United States as contem-
19 plated by such code, except as to matters which are specifi-
20 cally covered in this code, provided that no charge or
21 specification may be referred to a court-martial for trial
22 until a thorough and impartial investigation of all the mat-
23 ters set forth therein had been made. This investigation
24 shall be conducted in accordance with the procedures set
25 forth in Article 32 of the Uniform Code of Military Justice
26 of the United States, Title 10, United States Code, chapter
27 47, as of the effective date of this code, and according to
28 regulations prescribed by the President of the United States
29 as contemplated by the code.

30 27. Limitation of charges. A person charged with any
31 offense is not liable to be tried by court-martial or pun-
32 ished under subsection 15, if the offense was committed more
33 than 2 years before the receipt of sworn charges and speci-
34 fications by an officer exercising court-martial jurisdic-
35 tion, as set forth in this code.

36 28. Witnesses. The following apply to witnesses at a
37 court-martial.

38 A. Any military judge detailed under this code may ad-
39 minister oaths.

40 B. Any military judge, notary public or clerk of any
41 District Court or any Superior Court may issue subpoe-
42 nas for witnesses and subpoenas duces tecum to compel
43 the production of books, papers and photographs relat-
44 ing to any questions in dispute before the court-
45 martial or to any matters involved in a trial by court-
46 martial.

1 C. A person not subject to this code who:

2 (1) Has been duly subpoenaed to appear as a
3 witness before a court-martial, military commis-
4 sion, court of inquiry or any other military court
5 or board or before any military or civil officer
6 designated to take a deposition to be read in evi-
7 dence before the court, commission or board;

8 (2) Has been duly paid or tendered the fees and
9 mileage of a witness at the rates allowed to wit-
10 nesses attending the District Courts of the State;
11 and

12 (3) Intentionally neglects or refuses to appear
13 or refuses to qualify as a witness, or to testify
14 or produce any evidence which that person may have
15 been legally subpoenaed to produce upon convic-
16 tion,

17 is guilty of a Class E crime.

18 D. Violation of this subsection shall be prosecuted by
19 the Attorney General.

20 E. The fees and mileage of witnesses shall be advanced
21 or paid out of the Military Fund.

22 29. Application of forfeitures. Whenever a sentence
23 of a court-martial, as lawfully adjudged and approved,
24 includes a forfeiture of pay and allowances in addition to
25 confinement not suspended or deferred, the forfeiture may
26 apply to pay or allowances becoming due on or after the date
27 the sentence is approved by the convening authority. No
28 forfeiture may extend to any pay or allowances accrued
29 before that date.

30 All other sentences included in a sentence of a court-
31 martial shall not be effective until approved by the Gover-
32 nor in accordance with subsection 37.

33 30. Confinement. Under such instructions as the Gov-
34 ernor may prescribe, a sentence of confinement adjudged by a
35 court-martial or other military tribunal, whether or not the
36 sentence includes discharge or dismissal, and whether or not
37 the discharge or dismissal has been executed, may be carried
38 into execution by confinement in any place of confinement as
39 provided in subsection 11. Persons so confined in a penal
40 or correctional institution not under the control of one of
41 the military forces are subject to the same discipline and

1 treatment as persons confined or committed by the courts of
2 the State.

3 31. Record of trial. After a trial by court-martial,
4 the record shall be forwarded to the convening authority,
5 and action thereon may be taken by the person who convened
6 the court, a commissioned officer commanding for the time
7 being, a successor in command or any officer exercising
8 court-martial jurisdiction.

9 32. State Judge Advocate opinion. The convening
10 authority shall refer the record of each court-martial to
11 the State Judge Advocate, who shall submit his written opin-
12 ion thereon to the convening authority. If the final action
13 of the court has resulted in an acquittal of all charges and
14 specifications, the opinion shall be limited to questions of
15 jurisdiction.

16 33. Reconsideration. The record of a court-martial
17 may be returned to the court for reconsideration as follows.

18 A. If a specification before a court-martial has been
19 dismissed on motion and the ruling does not amount to a
20 finding of not guilty, the convening authority may
21 return the record to the court for reconsideration of
22 the ruling and any further appropriate action.

23 B. Where there is an apparent error or omission in the
24 record or where the record shows improper or inconsis-
25 tent action by a court-martial with respect to a
26 finding or sentence, which can be rectified without
27 material prejudice to the substantial rights of the ac-
28 cused, the convening authority may return the record to
29 the court for appropriate action. In no case may the
30 record be returned:

31 (1) For reconsideration of a finding of not
32 guilty of any specification or a ruling which
33 amounts to a finding of not guilty;

34 (2) For reconsideration of a finding of not
35 guilty of any charge, unless the record shows a
36 finding of guilty under a specification laid under
37 that charge, which sufficiently alleges a viola-
38 tion of some section of this code; or

39 (3) For increasing the severity of the sentence,
40 unless the sentence prescribed for the offense is
41 mandatory.

1 34. Disapproval of findings and sentence. If the con-
2 vening authority disapproves the findings and sentence of a
3 court-martial, he may, except where there is a lack of suf-
4 ficient evidence in the record to support the findings,
5 order a rehearing. In such a case, he shall state the
6 reasons for disapproval. If he disapproves the findings and
7 sentence and does not order a rehearing, he shall dismiss
8 the charges.

9 Each rehearing shall take place before a court-martial com-
10 posed of members who are not members of the court-martial
11 which first heard the case. Upon a rehearing, the accused
12 may not be tried for any offense of which he was found not
13 guilty by the first court-martial, and no sentence in excess
14 of or more severe than the original sentence may be imposed,
15 unless the sentence is based upon a finding of guilty of an
16 offense not considered upon the merits in the original pro-
17 ceedings, or unless the sentence prescribed for the offense
18 is mandatory.

19 35. Approval of findings and sentence. In acting on
20 the findings and sentence of a court-martial, the convening
21 authority may approve only the findings of guilty, and the
22 sentence or the part or amount of the sentence, as he finds
23 correct in law and fact and as he in his discretion deter-
24 mines should be approved. Unless he indicates otherwise,
25 approval of the sentence is approval of the findings and
26 sentence.

27 36. Appeal. Upon petition of the accused, the Supreme
28 Judicial Court shall review the record of any case approved
29 by the convening authority.

30 The accused has 30 days from the time he is notified of the
31 approval of his case by the convening authority to petition
32 the Supreme Judicial Court for review.

33 Upon filing his petition in the Supreme Judicial Court, the
34 accused shall on the same date file a notice of his inten-
35 tion to appeal with the convening authority, who shall
36 within 30 days forward the complete transcript of the case
37 to the Supreme Judicial Court.

38 In any case reviewed by it, the Supreme Judicial Court may
39 act with respect to any of the findings and sentence as
40 approved by the convening authority. The Supreme Judicial
41 Court shall take action only with respect to matters of law.

42 If the Supreme Judicial Court sets aside the findings and
43 sentence, it may, except where the setting aside is based on

1 lack of sufficient evidence in the record to support the
2 findings, order a rehearing. If it sets aside the findings
3 and sentence and does not order a rehearing, it shall order
4 that the charges be dismissed.

5 After it has acted on a case, the Supreme Judicial Court may
6 direct the convening authority to take action in accordance
7 with its decision. If the court has ordered a rehearing,
8 but the convening authority finds a rehearing impracticable,
9 he may dismiss the charges.

10 37. Approval of Governor. Except as provided in sub-
11 section 29, no court-martial sentence may be executed until
12 approved by the Governor. The Governor shall, within 10
13 days following the expiration of the appeal period provided
14 in subsection 36, approve the sentence or the part, amount
15 or commuted form of the sentence as he sees fit. Upon the
16 approval by the Governor, the convening authority shall
17 order the sentence executed.

18 38. New trial. Within 2 years after approval by the
19 convening authority of a court-martial sentence, the accused
20 may petition the State Judge Advocate for a new trial on the
21 ground of newly discovered evidence or fraud on the court.
22 The State Judge Advocate shall review the petition, the
23 record and such other evidence as he deems appropriate and
24 report to the convening authority his recommendation for
25 grant or denial of a new trial. If a new trial is recom-
26 ended, the convening authority may order a rehearing as
27 provided in subsection 34. Upon filing of the petition for
28 a new trial, any proceedings pending upon appeal or review
29 of sentence shall be stayed.

30 39. Restoration of rights. All rights, privileges and
31 property affected by an executed part of a court-martial
32 sentence which has been set aside or disapproved, except an
33 executed dismissal or discharge, shall be restored unless a
34 new trial or rehearing is ordered and the executed part is
35 included in a sentence imposed upon the new trial or rehear-
36 ing.

37 40. Included offenses. An accused may be found guilty
38 of an offense necessarily included in the offense charged or
39 of an attempt to commit either the offense charged or an
40 offense necessarily included therein.

41 41. Attempts. An act done with specific intent to
42 commit an offense under this code, amounting to more than
43 mere preparation and tending, even though failing, to effect
44 its commission is an attempt to commit that offense.

1 Any person subject to this code who attempts to commit any
2 offense punishable by this code shall be punished as a
3 court-martial may direct, unless otherwise specifically pre-
4 scribed. Any person subject to this code may be convicted
5 of an attempt to commit an offense although it appears at
6 the trial that the offense was consummated.

7 42. Conspiracy. Any person subject to this code who
8 conspires with any other person to commit an offense under
9 this code shall, if one or more of the conspirators does an
10 act to effect the object of the conspiracy, be punished as a
11 court-martial may direct.

12 43. Desertion. Any member of the military forces who
13 commits any of the following acts is guilty of desertion:

14 A. Without authority, goes or remains absent from his
15 unit, organization or place of duty with intent to
16 remain away therefrom permanently;

17 B. Quits his unit, organization or place of duty with
18 intent to avoid hazardous duty or to shirk important
19 service; or

20 C. Being a commissioned officer of the military forces
21 who, after tender of his resignation and before notice
22 of his acceptance, quits his post or proper duties
23 without leave and with intent to remain away therefrom
24 permanently.

25 Any person found guilty of desertion or attempt to desert
26 shall be punished as a court-martial may direct.

27 44. Absent without leave. Any member of the military
28 forces who, without authority, fails to go to his appointed
29 place of duty at the time prescribed; or goes from that
30 place; or absents himself or remains absent from his unit,
31 organization or place of duty at which he is required to be
32 at the time prescribed, shall be punished as a court-martial
33 may direct.

34 45. Missing movement. Any person subject to this
35 code, who through neglect or design misses the movement of a
36 ship, aircraft or unit with which he is required in the
37 course of duty to move, shall be punished as a court-martial
38 may direct.

39 46. Disrespect to officer. Any person subject to this
40 code, who behaves with disrespect toward his superior com-
41 missioned officer, shall be punished as a court-martial may
42 direct.

1 47. Striking officer. Any person subject to this
2 code, who strikes his superior commissioned officer or draws
3 or lifts up any weapon or offers any violence against him
4 while he is in the execution of his office or willfully dis-
5 obeys a lawful command of his superior commissioned officer,
6 shall be punished as a court-martial may direct.

7 48. Striking noncommissioned officer. Any warrant
8 officer or enlisted member, who strikes or assaults a
9 warrant officer or noncommissioned officer while that offi-
10 cer is in the execution of his office, willfully disobeys
11 the lawful order of a warrant officer or noncommissioned
12 officer, or treats with contempt or is disrespectful in lan-
13 guage or deportment toward a warrant officer or noncommis-
14 sioned officer while that officer is in the execution of his
15 office, shall be punished as a court-martial may direct.

16 49. Failure to obey order. Any person subject to this
17 code, who violates or fails to obey any lawful general order
18 or regulation, or having knowledge of any other lawful order
19 issued by a member of the military forces, which it is his
20 duty to obey, fails to obey the order, or is derelict in the
21 performance of his duties, shall be punished as a court-
22 martial may direct.

23 50. Mutiny. Any person subject to this code who:

24 A. With intent to usurp or override lawful military
25 authority, refuses, in concert with any other person,
26 to obey orders or otherwise do his duty or creates any
27 violence or disturbance is guilty of mutiny;

28 B. With intent to cause the overthrow or destruction
29 of lawful civil authority, creates, in concert with any
30 other person, revolt, violence or other disturbance
31 against that authority is guilty of sedition; or

32 C. Fails to do his utmost to prevent and suppress a
33 mutiny or sedition being committed in his presence, or
34 fails to take all reasonable means to inform his supe-
35 rior commissioned officer or commanding officer of a
36 mutiny or sedition which he knows or has reason to
37 believe is taking place, is guilty of a failure to sup-
38 press or report a mutiny or sedition.

39 A person who is found guilty of attempted mutiny, mutiny,
40 sedition or failure to suppress or report a mutiny or sedi-
41 tion shall be punished as a court-martial may direct.

1 51. Breaking arrest. Any person subject to this code,
2 who resists apprehension or breaks arrest, or who escapes
3 from custody or confinement, shall be punished as a court-
4 martial may direct.

5 52. Under influence of alcohol or drugs on duty. Any
6 person subject to this code, who is found under the influ-
7 ence of alcoholic liquor or any drug while on duty, shall be
8 punished as a court-martial may direct.

9 53. Sentinels. Any sentinel or guard who is found
10 intoxicated by alcohol or drugs or sleeping upon his post,
11 or leaves his post before he is regularly relieved, shall be
12 punished as a court-martial may direct.

13 54. Feigning illness to avoid duty. Any person sub-
14 ject to this code, who for the purpose of avoiding work,
15 duty or service feigns illness, physical disablement, mental
16 lapse or derangement, or intentionally inflicts self injury,
17 shall be punished as a court-martial may direct.

18 55. False testimony. Any person subject to this code,
19 who in any administrative proceeding or proceeding under
20 this Title willfully and corruptly gives, upon a lawful oath
21 or in any form allowed by law to be substituted for an oath,
22 any false testimony material to the issue or matter of
23 inquiry, is guilty of perjury and shall be punished as a
24 court-martial may direct.

25 Statement of Fact

26 This bill is a new codification of the military laws of
27 the State as they are now contained in Title 37-A. It
28 includes all of the statutes relative to the Department of
29 Defense and Veterans' Services, which includes the Military
30 Bureau, the Bureau of Civil Emergency Preparedness and the
31 Bureau of Veterans' Services. This document is the result
32 of 6 years of drafting and review by attorneys associated
33 with the Maine National Guard. The language is designed to
34 meet the contemporary requirements of the departments
35 involved, but also to provide for the contingencies that are
36 foreseen with respect to the emergency nature of the activi-
37 ties of the department. It also seeks to remove ancient
38 language and unnecessary provisions. It creates a Title
39 37-B rather than amending Title 37-A in order to clearly
40 indicate a recodification.

41 There are very few changes of substance in this bill.
42 Those include a provision for minimum pay for National
43 Guardsmen called to state duty. This is to minimize the

1 drastic effect on the economics of the National Guardsman
2 and his family when he is unexpectedly called to emergency
3 duty on behalf of the State. In the event his National
4 Guard pay is less than the minimum wage, he will be paid by
5 the State on the basis of the minimum wage.

6 At the present time, a National Guardsman injured
7 during training may be entitled to federal incapacitation
8 pay. He also may be entitled to state workers' compensation
9 in which he might be paid twice for the same injury. By the
10 same token, a National Guardsman injured in training who can
11 perform his military duties, but cannot perform his civilian
12 occupation, might not be allowed any benefits. This bill
13 contains provisions to alleviate both situations to provide
14 for more equitable costs to the State and more equitable
15 benefits to the National Guardsman.

16 The persons eligible to order the National Guard into
17 active service have been limited to the Governor, and in
18 some instances, a judge or a sheriff. Severe restrictions
19 have been put on the ability of a local official to activate
20 the National Guard.

21 Legal protections have been added to provide a means by
22 which the Governor or Adjutant General shall request court
23 orders as well as provisions for relief by those aggrieved
24 by such orders. In addition, rules and regulations issued
25 by the Governor under such emergency powers shall be effec-
26 tive for no longer than 90 days. Prior to that expiration
27 date, the Governor must convene the Legislature for purposes
28 of considering the emergency.

29 The Maine Code of Military Justice is the National
30 Guard counterpart to the Uniform Code of Military Justice
31 when National Guardsmen are in their training capacity and
32 not activated to federal service. Because of the lack of
33 mobility of members between units in the Maine National
34 Guard, the code has been changed to provide for a nonjudi-
35 cial punishment panel. This will be a group that will
36 review nonjudicial punishment imposed by the unit commander.
37 In addition, this change provides for the availability of a
38 military judge from a reserve component rather than limiting
39 such availability to National Guardsmen.

40 There is nothing in this bill to call for any addition-
41 al costs to State Government except to the extent that the
42 pay scale of National Guardsmen in emergency situations may
43 be slightly affected. These expenses are met by the Gover-
44 nor through his contingency appropriation, and, of course,
45 are only necessary in the event of a call out of the
46 National Guard for state service.